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THE NEW JERSEY STATUTE AND THE SUPREME COURT MINORITY

Ironically, an amendment to the Federal Constitution that was meant to guarantee freedom of conscience has come at last, after a century and half of lobbying by non-Catholic and secularist counter-revolutionaries, to be accepted by four Justices of the Supreme Court of the United States as a penal amendment to the Constitution, restrictive of the religious freedom it was originally intended to guarantee.

On February 10, 1947, by a 5-4 decision, the Supreme Court of the United States upheld the New Jersey Court of Errors and Appeals in finding that a statute and a resolution providing bus transportation for children attending private schools does not violate the First Amendment to the Federal Constitution. The separate dissent of Mr. Justice Jackson, in which Mr. Justice Frankfurter joined, opposed the statute and the resolution on the ground that they authorized the spending of public funds in a discriminatory manner and for a private purpose. Mr. Justice Rutledge wrote the minority opinion, finding the statute and the resolution unconstitutional because they were an attack upon the historic methods of insuring the separation of church and state introduced by the First Amendment. The present article answers Mr. Justice Jackson's opinion chiefly by opposing to it the pertinent arguments of the majority opinion of Mr. Justice Black. It also attempts a rather minute analysis of the historical grounds alleged by Mr. Justice Rutledge for his view.

The lament has been voiced in the dissenting opinions themselves as well as in editorial comment on them, that the success the counter-revolution has thus far achieved should not be challenged, lest its resistance be again provoked to burst forth in the deeds of violence that characterized it in the middle of the last century. The fear is implicitly expressed that a new generation of Beechers, Breckenridges, and Morses will rise to the challenge and stimulate the less cultured of their associates to renewed assaults on so-called sectarian churches. One must indeed sympathize with the pragmatic view implicit in that attitude. Indeed, much can be said for it. Even the victims of a policy based on it cannot too severely censure it. Their own Christian sentiments

demand that they abstain from that provocation which would stimulate violence. How, then, can they entertain ill will against those who ask them to relinquish their rights under the Constitution in the interest of public peace?

If the request were based on this pragmatic ground, the only avenue of criticism by which it could be assailed would be a factual one. One could still ask whether volence would result from the recognition of the victims' civil rights. This, indeed, is highly questionable. Even should a generation of Beechers and Morses arise again, they could not summon to their aid in rousing the rabble the fear of a papal empire reared by immigrants on the fair plains of our midwestern States. Their ammunition in this respect is rather moist nowadays. Nor could they fairly compete with other rabble-rousing forces in marshalling the masses in the East. Dread of the immigrant's competition is no longer bait for the children of the immigrant. Dread of industrial oppression is now the bait that is most successfully used. And other forces have a monoply in that market.

One can well question the factual reality of the impending violence that is said to await breathlessly the recognition of the rights of all religions under the Federal Constitution, and this in spite of the expressions in the dissenting opinions themselves that could be construed as vestiges of the terroristic propaganda of a hundred years ago. It is true that the masses can still be rallied to the polls in many areas to put the papal tiara where it belongs. But it is extremely doubtful whether they could again be stimulated to offer holocausts to the god of their injustice.

In any event, the dissenting opinions were not based on this pragmatic assumption. They appealed to high juridical and constitutional principles. One ground of dissent was the restricted one based on the particular terminology of the New Jersey statute and of the resolution of the Board of Education of the Township of Ewing.

"The New Jersey statute might be held invalid on its face," it was said, "for the exclusion of children who attend private, profit-making schools. I cannot assume, as does the majority, that the New Jersey courts would write off this explicit limitation from the statute. Moreover, the resolution by which the statute was applied expressly limits its benefits to students of public and Catholic schools. There is no showing that there are no other

private or religious schools in this populous district." "The New Jersey Act in question," says the dissent of Mr. Justice Jackson, "makes the character of the school, not the needs of the children determine the eligibility of parents to reimbursement. The Act permits payment for transportation to parochial schools or public schools but prohibits it to private schools operated in whole or in part for profit. Children are often sent to private schools because their parents feel that they require more individual instruction than public schools can provide, or because they are backward or defective and need special attention. If all children of the state were objects of impartial solicitude, no reason is obvious for denying transportation reimbursement to students of this class, for these often are as needy and as worthy as those who go to public or parochial schools. Refusal to reimburse those who attend such schools is understandable only in the light of a purpose to aid the schools, because the state might well abstain from aiding a profit-making private enterprise. Thus, under the Act and resolution brought to us by this case children are classified according to the schools they attend and are to be aided if they attend the public schools or private Catholic schools, and they are not allowed to be aided if they attend private secular schools or private religious schools of another faith."

The last sentence, combining the particular terms of the resolution of Ewing Township with its authorization under the New Jersey statute, could mislead, as it seems to have misled even editorial writers. It could be understood to mean that the statute itself permitted transportation to only public and Catholic schools; whereas the only limitation in the statute itself is that transportation cannot be supplied children attending profit-making schools. The statute of New Jersey authorizes district boards of education to make rules and contracts for the transportation of children living remote from any schoolhouse to and from school other than a public school, except such school as is operated for profit, and it requires school districts to permit the use of their busses along their regular routes by children attending schools that are not public schools, except profit-making schools. Thus the deficiency of the statute, if any, could not consist in its exclusion of non-profit religious schools of any denomination, because it does not exclude them; but only in its exclusion of profitmaking schools.

The Board of Education of Ewing Township could therefore with full warrant of the statute have included in its resolution transportation to the parochial school of any religious denomination. Was the resolution more restrictive as law than the statute under which it operated when it provided transportation only for children attending public and Catholic parochial schools? Was it a law in conflict with the statute of the State? Now even a resolution of a city council when it is given the status of a city ordinance is only a by-law, equivalent to the by-laws of a private corporation, that is, it is not a public law, but only a police or a domestic regulation. But a resolution does not enjoy even this standing if it merely expresses the will of the corporation; it is a ministerial decision. That the resolution of the School Board of Ewing Township was a ministerial decision under the statute should be amply clear in virtue of this explanation. Now if I, acting under a statute, fulfill it to the degree in which local circumstances either require me to fulfill or justify me in fulfilling it, it does not follow that I have violated it because I have not taken other measures warranted by the statute but not required by it under the circumstances. If a statute warranted or required contracts for the removal of snow, such contracts would not need to be made in the summer time. A correct constitutional attitude towards the ministerial conduct of the School Board of Ewing Township would have recognized a demurrer to any suit that could not show that the School Board had refused to supply transportation along its regular route to children attending nonprofit parochial schools (that was all it was required to do under the statute) or had refused to afford it to the children attending the parochial school of one religion and had afforded it to the children attending the parochial school of another.

Of course, if the constitutionality of the statute is to be attacked also, then the suit should completely ignore the ministerial conduct of the School Board except in so far as it was an application of the statute. In other words, the statute cannot be restrictively interpreted in terms of the ministerial conduct of the School Board, though the ministerial conduct of the latter can afford an issue on which the statute can be brought into court.

Now, in the attitude of the dissent towards the statute of New Jersey what is alleged as the reason for its unconstitutionality? The only ground based on its terminology is that it does not in-

clude children attending private profit-making schools, or rather excludes them. This is the way the majority opinion answered that dissenting objection:

> Since there has been no attack on the statute on the ground that a part of its language excludes children attending private schools operated for profit from enjoying state payment for their transportation, we need not consider this exclusionary language; it has no relevancy to any constitutional question here presented. Furthermore, if the exclusion clause had been properly challenged, we do not know whether New Jersey's highest court would construe its statutes as precluding payment of the school transportation of any group of pupils, even those of a private school run for profit. Consequently, we put to one side the question as to the validity of the statute against the claim that it does not authorize payment for the transportation generally of school children in New Jersey.

As a note appended to this answer made by the majority opinion, it is indicated that the highest court of New Jersey, if the statute had been challenged on the basis of the excepting clause, might have held the latter to be invalid, while sustaining the remainder of the statute, acting under the provision of the New Jersey statute which reads as follows: if "any provision thereof shall be declared unconstitutional . . . in whole or in part, by a court of competent jurisdiction, such article shall, to the extent it is not unconstitutional . . . . be enforced . . . " (Section 1:10 N. J. Rev. Stat.).

This was indeed a complete answer on juridical principles to the dissenting objection based on the narrow view of the New Jersey statute. If the dissent had been based entirely on this narrow ground, the dissenters, in attempting to save a taxpayer's money, would have been placed in the absurd position of saving it for him on the ground that a statute did not take more of it away from him, i.e., to provide transportation for children attending profit-making schools.

If the dissent had been based entirely on that ground, note further what the dissenting Justices would have said of existing school appropriations. Since for the most part they exclude a great number of the children of the various States from participation in their benefits, they are unconstitutional. If a statute is unconstitutional because it excludes from its benefits the children of profit-making schools, while it extends them to other schools,

why does it not follow that every statute or appropriation is unconstitutional that distinguishes between children who are to receive its benefits on the basis of the school which they attend? Thus in their effort to prevent discrimination against children attending profit-making schools, the dissenting Justices actually provide almost a conclusive argument against the constitutionality of any State appropriation that discriminates against children on the basis of the school attended by them.

Those who would deny this conclusion would probably do so because they believe that public schools enjoy some sort of constitutional preferential position arising from inherent constitutional necessity. That is to say, they would be influenced by the belief that the State is required by some principle inherent in Government to take measures systematically to provide education for its children and that the public school is the repository of the measures taken by the State in this direction. On the contrary, however, the very existence of public education in this country is simply an adventitious occurrence. It is a creature of positive statutory law. The right to be educated in the public schools is one derived entirely from the legislation of the State, at all times subject to the restrictions and the qualifications which the legislature deems proper at any time to impose upon it, even to the extent of suppressing the right altogether. The legislature can at will determine upon the best method of educating the different classes of children in the State, whether this classification arises from nationality, color, or ability, so long as it provides for all alike in the character and extent of the education which it furnishes and the facilities for its acquisition.

In the light of this explanation, it seems clear that the dissenting Justices, in their concern for the rights of children attending profit-making schools, implicitly criticized the constitutionality of State legislation which singles out attendance at one type of school as the criterion of the benefits to be bestowed on children attending school in that State.

This conclusion is all the more warranted in view of the opinion of the Supreme Court of the United States in the Oregon school case. Parochial schools are not Cinderellas, step-children, to be snubbed and ignored at the whim of the legislator. It is an egregious mistake to consider them as inferior in status to the public schools. It is a distortion of the truth to think of them as

existing *de facto* in contrast with the *de iure* existence of the public schools. It is to speak in an invidious idiom to refer to them, as non-Catholic educators often presumptuously do, as "protest schools" or call their pupils "withdrawal pupils." The attitude that prompts this contemptuous language prompts statements like the following: "The sending of children to private schools, whether religious or non-sectarian, is an excuse for not utilizing the public facilities afforded by the State." One may well ask by what right these facilities can be called public when they are restricted to the children attending one type of school selected at the will of the legislature to the exclusion of all others? Could it be that this attitude prevented the dissenting Justices from seeing that their argument holding the statute of New Jersey invalid because it discriminated against children attending profit-making schools actually makes unconstitutional all appropriations limited in their benefits to children attending the public schools?

Mr. Justice Jackson concentrated on the resolution of the School Board of Ewing Township because it was his purpose to show that the statute as applied in that township was discriminatory not only in excluding from its benefits children attending profit-making schools but also in extending its benefits only to children attending public and Catholic schools. From what has already been said, it is clear that the ministerial act of the School Board acting under the enabling statute in a particular situation cannot be construed as changing the provisions of the statute itself. The statute is constitutional or unconstitutional independently of the particular cases to which it is applied. It is the fact that it excludes certain cases from its application, or includes those which it should not, that renders its constitutionality subject to challenge, and this independently of whether it is ever applied to the cases included within it or not. This concentration upon the resolution of the School Board was unfortunate in that it gave rise to the mistaken view that the statute itself excluded from its benefits children attending any non-profit parochial schools except the Catholic schools. A Beecher or a Morse could not have adopted tactics that would be better calculated to stimulate the very sectarian bitterness which the dissenting Justices so emphatically decry.

The next step in Mr. Justice Jackson's argument is the attempt

to show that the furnishing of transportation to children attending a Catholic school is the expending of money for a private, not a public, purpose, i.e., for the promotion of piety. In answer to this argument the majority opinion replied as follows:

> But, the New Jersey legislature has decided that a public purpose will be served by using tax-raised funds to pay the bus fares of all school children, including those who attend parochial schools. The New Jersey Court of Errors and Appeals has reached the same conclusion. The fact that a state law, passed to satisfy a public need, coincides with the personal desires of the individuals most directly affected is certainly an inadequate reason for us to say that a legislature has erroneously appraised the public need. . . . It is much too late to argue that legislation intended to facilitate the opportunity of children to get a secular education serves no public purpose. . . . The same thing is no less true of legislation to reimburse needy parents, or all parents, for payment of the fares of their children so that they can ride in public busses to and from schools rather than run the risk of traffic and other hazards incident to walking or "hitch-hiking." . . . Nor does it follow that a law has a private rather than a public purpose because it provides that tax-raised funds will be paid to reimburse individuals on account of money spent by them in a way which furthers a public program. . . . Subsidies and loans to individuals such as farmers and home owners, and to privately owned transportation systems, as well as many other kinds of businesses, have been commonplace practices in our state and national history.

In this argument of the majority opinion there resides a complete refutation of the objection of Mr. Justice Jackson that "This expenditure of tax funds has no possible effect on the child's safety or expedition in transit." He was able to say this because he unwarrantedly assumed that the children involved would use the same busses even if their parents were not reimbursed. The majority opinion, on the contrary, adopted the correct assumption, i.e., that in the absence of reimbursement, the children would be obliged to walk or "hitch-hike." It was this assumption that the objection of Mr. Justice Jackson attempted to rebut. His attack on the public purpose to which the tax-raised money was devoted under the New Jersey statute was motivated by a more fundamental problem. After paving the way for what seemed to him a clear-cut issue by showing that in Ewing Township only the Catholic parochial schools, in addition to the public schools, benefited from it, he asked the question, "Is it consti-

tutional to tax this complainant to pay the cost of carrying pupils to Church schools of one specified denomination?" Since, as already explained, it was only the local circumstances that postulated a ministerial act in Ewing Township by which the statute benefited, in addition to children attending public schools, only those attending Catholic schools, a fairer statement of the question would have been, "Is it constitutional to tax this complainant to pay the cost of carrying pupils to Church schools?" Seemingly, Mr. Justice Rutledge would have phrased the question thus, for his thesis is expressed in the following words, "We have here then one substantial issue, not two. To say that New Jersey's appropriation and her use of the power of taxation for raising the funds appropriated are not for public purposes but are for private ends, is to say that they are for the support of religion and religious teaching. Conversely, to say that they are for public purposes is to say that they are not for religious ones." To Mr. Justice Rutledge the nature of the purpose depends entirely, in the case at issue, as to whether it is a religious one or not. Of course, he replied that the intent of the New Jersey statute was to deploy tax-raised funds to religious purposes and therefore to private ones. But of his argument more will be presented later.

Note the reply of the majority opinion to the contention that the public purpose of education given in religious schools is inseparable from the religious that is also taught in them. The court said:

> On the other hand, other language of the amendment [the First Amendment to the Federal Constitution] commands that New Jersey cannot hamper its citizens in the free exercise of their own religion. Consequently, it cannot exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, *because of their faith, or lack of it,* from receiving the benefits of public welfare legislation. While we do not mean to intimate that a state could not provide transportation only to children attending public schools, we must be careful, in protecting the citizens of New Jersey against state-established churches, to be sure that we do not inadvertently prohibit New Jersey from extending its general state law benefits to all its citizens without regard to their religious belief.
>
> Measured by these standards, we cannot say that the First Amendment prohibits New Jersey from spending tax-raised funds to pay the

bus fares of parochial school pupils as a part of a general program under which it pays the fares of pupils attending public and other schools. It is undoubtedly true that children are helped to get to church schools. There is even a possibility that some of the children might not be sent to church schools if the parents were compelled to pay their children's bus fares out of their own pockets when transportation to a public school would have been paid for by the State. The same possibility exists where the state requires a local transit company to provide reduced fares to school children including those attending parochial schools, or where a municipally owned transportation system undertakes to carry all school children free of charge. Moreover, state-paid policemen, detailed to protect children going to and from church schools from the very real hazards of traffic, would serve much the same purpose and accomplish much the same result as state provisions intended to guarantee free transportation of a kind which the state deems to be best for the school children's welfare. And parents might refuse to risk their children to the serious danger of traffic accidents going to and from parochial schools, the approaches to which were not protected by policemen. Similarly, parents might be reluctant to permit their children to attend schools which the state had cut off from such general government services as ordinary police and fire protection, connections for sewage disposal, public highways and sidewalks. Of course, cutting off church schools from these services so separate and so indisputably marked off from the religious function, would make it far more difficult for the schools to operate. But such is obviously not the purpose of the First Amendment. That Amendment requires the state to be a neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary. State power is no more to be used so as to handicap religions, than it is to favor them.

This Court has said that parents may, in the discharge of their duty under state compulsory education laws, send their children to a religious rather than a public school if the school meets the secular educational requirements which the state has power to impose. *See Pierce v. Society of Sisters,* 268 U. S. 510 [the Oregon school case]. It appears that these parochial schools meet New Jersey's requirements. The State contributes no money to the schools. It does not support them. Its legislation, as applied, does no more than provide a general program to help parents get their children, regardless of their religion, safely and expeditiously to and from accredited schools.

The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach. New Jersey has not breached it here.

Basing his point of departure on the opposite premise, namely,

that bus transportation furnished by the State to children attending a parochial school is a diversion of tax-raised funds to private purposes, Mr. Justice Rutledge devotes his opinion to justifying that premise. His argument, therefore, aims to prove that the transportation supplied the school benefits the Church and that such benefit is necessarily a private purpose because the First Amendment forbids it. At once it is apparent that the majority opinion has answered this contention in its decision that not every indirect aid to religion is forbidden the State; that therefore such aid can be given for a public purpose; and that the statute of New Jersey in furnishing transportation to children attending parochial schools was actually contributing State funds for a public purpose.

The characteristic feature of Mr. Justice Rutledge's thesis is that the First Amendment, like some sensitive needle, commences quivering at the slightest approach of religion's shadow. The notable length of his opinion may be ascribed to the laborious devices necessary to give this thesis even verisimilitude. Paradoxically enough, it results only in the conclusion that we don't want to return to the days of the First Amendment. The results of the intervening century and a half of lobbying are too sweet to be relinquished.

The delicate sensitiveness of the First Amendment in regard to the approach of religion's shadow is attributed by him to the craftsmanship of Madison, who wanted it to be so. It is not inappropriate, then, to ask whether the First Amendment, as adopted, really corresponds to what Mr. Madison would have made it. After all, the Amendment was passed by a two-third vote in the Senate and in the House of Representatives and by the vote of three-fourths of the States. Was Mr. Madison's authority and influence so great that he could compel all the legislators involved to mean by the First Amendment what he meant by it? It will be apparent in a moment that it assuredly was not.

But, first, it may be asked whether one can even be sure of what Mr. Madison's view was in regard to the First Amendment to the Federal Constitution. At first glance, it might seem fair to conclude that a guide as to what he meant by it could be gleaned from his *Memorial and Remonstrance against Religious Assessments*, a copy of which the dissenting Justices appended to their

opinion. It was in the heat of a bitter political struggle that Mr. Madison composed this document in opposition to such opponents as Washington, Patrick Henry, R. H. Lee, and John Marshall, and it was a struggle confined to the State of Virginia. Mr. Madison, therefore, was in the midst of a taxing local campaign and in the pursuit of victory he was not above the devices common to politicians everywhere. Indeed, in a note, Mr. Justice Rutledge himself cites with approval as among the reasons for the defeat of the Assessment Bill "Madison's astute leadership, taking advantage of every 'break' to convert his initial minority into a majority, including the deferment of action on the third reading to the fall; the Remonstrance (which was, of course, widely circulated) bringing a flood of protesting petitions."

That Madison did not feel so strongly on the subject as Mr. Justice Rutledge would predicate of him on the basis of this piece of campaign literature is apparent from his attitude in the House of Representatives when the First Amendment was before the House. Volume I of the *Annals of Congress* (col. 730) reports his explanation thus:

> Mr. Madison said, he apprehended the meaning of the words [of the Amendment] to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. *Whether the words are necessary or not* [i.e. whether they needed to be inserted in the Federal Constitution as an Amendment], *he did not mean to say, but they had been required by some of the State Conventions* [i.e. those that were called for the purpose of ratifying the Federal Constitution], *who seemed to entertain an opinion that under the clause of the Constitution, which gave power to Congress to make all laws necessary and proper to carry into execution the Constitution, and the laws made under it, enabled them to make laws of such a nature as might infringe the rights of conscience and establish a national religion;* to prevent these effects he presumed the amendment was intended, and he thought it as well expressed as the nature of the language would admit (Italics added).

Are these the words of a flaming crusader carrying the torch of his cause from the House of Burgesses into the halls of the Congress of the United States? Do they not sound more like the language of a timid tyro apologizing for his intrusion into the midst of great men? Clearly, Mr. Madison admits that it was not

on his initiative that the Amendment was inserted. So much is this the case, that he hesitates to commit himself as to the exact meaning of it. Indeed, Mr. Madison was personally interested in the passage of this Amendment for he had managed to obtain the ratification of the Federal Constitution by Virginia through his personal pledge that this Amendment would be appended to it. Cleverly enough, in his statement in the House of Representatives, he referred truthfully enough to a number of States which were also concerned that a larger statement on religious liberty was needed. These were New York, Pennsylvania, Rhode Island, and North Carolina. The purpose behind these requests was admirably explained by New Hampshire which expressed its fear that without such an Amendment Congress might establish the Catholic religion or make religious liberty universal. Mr. Madison, in his address to the House, intimated as much. A few minutes after he finished the remarks just noted, he was on his feet again, this time to express his thought that "if the word 'national' was inserted before religion, it would satisfy the minds of honorable gentlemen. He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform. He thought if the word 'national' was introduced, it would point the amendment directly to the object it was intended to prevent." Read in the light of New Hampshire's objection, the meaning of Mr. Madison's words in interpreting the sense of the First Amendment is unmistakable. His *Remonstrance* aimed at disestablishing the Episcopalian Church in Virginia; his First Amendment aimed at preventing the establishment of a national religion. Is it justifiable to interpret Mr. Madison's view of the First Amendment in terms of his opposition to the Episcopalian Church in Virginia?

But even if Mr. Madison's purpose in introducing the First Amendment into the Federal Constitution, and his understanding of its meaning, had been identical with that expressed in his *Remonstrance*, was he a man of sufficient influence to impose that view on his colleagues in the House? Not if one notes the difficulty with which he managed to win the House over to a consideration of his list of Amendments. Even those Representatives whose States desired Amendments were so engrossed in the consideration of means of collecting revenue that they were loath to postpone

it for the period of time necessary to take up the Amendments. Those who were opposed to the Amendments, as Mr. Jackson of Georgia, complained that it was impractical to bow to theorists who wished to add Amendments to the Constitution before the latter had been given a chance to prove itself. Surely, this opposition is far from proving a preponderating influence of Mr. Madison in the House of Representatives of his time. Moreover, if his influence over the States which ratified the Amendment was dominant, and if that influence meant that they, in ratifying it, were embracing the extremist position of the *Remonstrance*, how does it come that many of them retained their established churches for years after the ratification of this Amendment, with religious tests making office available only to Protestants, and with regular appropriations to religious schools?

How does Mr. Justice Rutledge handle this difficulty? He omits all reference to Mr. Madison's statements in the House of Representatives, and that in spite of the fact that in a note he refers to a statement of Representative Huntington of Connecticut, which in the *Annals* is sandwiched between the two statements of Mr. Madison quoted above. The difficulty is glossed through a specious transition made in the following words.

> The next year (1787) Madison became a member of the Constitutional Convention. Its work done, he fought valiantly to secure the ratification of its great product in Virginia as elsewhere, and nowhere else more effectively. Madison was certain in his own mind that under the Constitution "there is not a shadow of right in the general government to intermeddle with religion (V Madison, 176. Cf. notes 33, 37)" and that "this subject is, for the honor of America, perfectly free and unshackled. The Government has no jurisdiction over it . . . (V Madison, 132)." Nevertheless he pledged that he would work for a Bill of Rights, including a specific guaranty of religious freedom, and Virginia, with other states, ratified the Constitution on this assurance.
>
> Ratification thus accomplished, Madison was sent to the first Congress. There he went at once about performing his pledge to establish freedom for the nation as he had done in Virginia. Within a little more than three years from his legislative victory at home he had proposed and secured the submission and ratification of the First Amendment as the first article of our Bill of Rights.
>
> All the great instruments of the Virginia struggle for religious liberty thus became warp and woof of our constitutional tradition, not simply by the course of history, but by the common unifying force of Madison's

life, thought and sponsorship. He epitomized the whole of that tradition in the Amendment's compact, but nonetheless comprehensive, phrasing. . . .

In view of this history no further proof is needed that the Amendment forbids any appropriation, large or small, from public funds to aid or support any and all religious exercises. . . .

By contrast with the Virginia history, the congressional debates on consideration of the Amendment reveal only sparse discussion, reflecting the fact that the essential issues had been settled [*sic!*].

Let the reader appraise the value of this argument in the light of Mr. Madison's own words in the House, in the light of the opposition he met from other members of the House, and in the light of the attitude of the ratifying States which continued the tithe system, tests for office, and appropriations to religious schools.

But there is another singular omission in the opinion of Mr. Justice Rutledge, one which, if noted, would have definitely shown that the issues had not been settled in the way he supposes they were, not in Madison's day, not even in our own, in spite of continual efforts in that direction by leagues and associations opposed to the parochial school. The omission was that of reference to the attempts made to pass an Amendment through Congress that would forbid appropriations by the Federal Government to religious schools. If this is forbidden by the First Amendment, what need was there of such persistent attempts to pass another Amendment to the Federal Constitution? This question is entirely ignored in the opinion of the dissenting judges. May we hope that they were not attempting to pass by judicial *fiat* an Amendment to the Federal Constitution which all the efforts of those whose views coincide with theirs have thus far not been able to have enacted!

The first attempt to have this amendment came in the days of President Grant. For some thirty-five years preceding this attempt, the so-called "non-sectarian" school had been in the ascendant. Owing to the efforts of Horace Mann, Henry Barnard, Samuel Lewis, Samuel Galloway, and Thaddeus Stevens, a Unitarian type of school had come to win the support of legislators in many of the States, a school which was called "non-sectarian" in spite of the fact that the King James Version of the Bible was read in it, that Protestant chapel exercises were held at which all

children were compelled to attend, and that anti-Catholic textbooks were the order of the day. The Protestant sects acquiesced in this type of school because it seemed a solution of their competitive ambitions to control the public institutions for their own benefit. The movement, carrying with it the magic word "non-sectarian," fastened itself upon the public mind and was written into legislative acts and State constitutions. The word "non-sectarian" obscured the real issue between religious liberty and non-religious liberty (i.e. between the liberty owed to those whose religion prevented their accepting "non-sectarianism" and that owed only to those who were able to accept it). It came to be thought that public favors were owed only to those who acquiesced in "non-sectarian" education and not to those who were insistent upon the traditional religious education that had been prevalent in the days preceding Horace Mann. Thus "non-sectarian" religion (i.e. that which did not discriminate among the creeds of the various Protestant sects) was regarded as entitled to public support, while those who adhered to "sectarian" religion (i.e. the Catholic creed) were not entitled to it.

This quasi-establishment of the "non-sectarian" religion proceeded everywhere to belittle private schools of all types, but especially the "sectarian" schools. Especially against the latter did it muster the forces of every wave of religious prejudice under the standard of the "little-red-school-house" to play up its own indigenous character and the alleged alien character of the "sectarian" school. This procedure never failed to revive anew the ancient dread of the great "enemy" whose endeavor to "capture the mind" of the country through its un-American parochial schools must be resisted, or at all events must never be aided by public money. Thus the cause of so-called "non-sectarian" education became a "holy cause," covered with the mantle of religious enthusiasm and reverenced as the great American institution. To criticise it or its officials required more boldness than to ridicule by cartoon or article other American institutions, whether of church or government, or even the highest public officials of the nation.

But even though the so-called "non-sectarian" tax-supported school, through the interplay of opportune factors, thus came to enjoy a privileged place among religious schools, its advocates were displeased that both the State and the Federal governments

continued to contribute rather insignificant sums to other religious schools, which they continued to belittle as "sectarian." This they decided must stop. So they sought an Amendment to the Constitution of the United States to stop it. And to this day they have not succeeded in having such an Amendment even pass through Congress.

In his annual message of 1875, President Grant, acquiescing in their views, recommended an amendment to the Federal Constitution forbidding the teaching in any public schools of religious tenets, but not the reading of the King James Version of the Bible, not the Protestant chapel exercises, not the anti-Catholic textbooks. He further recommended that the amendment should prohibit "the granting of any school funds, or school taxes, or any part thereof, either by legislative, municipal, or other authority, for the benefit or in aid, directly or indirectly, of any religious sect or denomination."

One week after the submission of this message, James G. Blaine, then the leader of the House, introduced a resolution for a constitutional amendment which on August 4, 1876, was overwhelmingly passed by the House. The Tilden-Hayes campaign intervened. The Republican Platform of 1876 called for an amendment to the Federal Constitution forbidding "the application of any public funds or property for the benefit of any school or institution under sectarian control." The Democratic Platform was silent. When the constitutional amendment was voted on in the Senate it resulted, on Aug. 14, 1876, in a strictly partisan vote, all Republican senators voting for it and all Democratic senators voting against it. It was lost because it had not received the necessary two-thirds majority. And this proposed amendment according to House Document 551 of the 70th Congress, Second Section (§72), has been re-introduced twenty times but only once reported on by the committee to which it was referred and then with the recommendation that it should not pass.

In the light of this failure of the forces opposed to the religious school, how can it be said that the issue as Mr. Justice Rutledge views it was well settled when the First Amendment was ratified?

What issue was well settled? It was one that did not make of the First Amendment the enemy of the religious school; it was one that did not exclude the public nature of secular education given in religious schools; it was one that did not make of the

First Amendment a quivering needle, trembling with dread in the shadow of religion, especially in the shadow of the Pope. Let Mr. Madison tell us what the issue was. "He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform. He thought if the word 'national' was introduced, it would point the amendment directly to the object it was intended to prevent" (Vol. I, *Annals of Congress*, col. 731).

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FIFTY YEARS AGO

In the May, 1897, issue of *The American Ecclesiastical Review,* Bishop McQuaid, of Rochester, contributes the leading article on "Our American Seminaries." He discusses the course of study that should be conducted in the major seminary, the maintenance of discipline, and the means of providing an adequate faculty. He vigorously opposes the use of tobacco by seminarists. "The excuse alleged by some, that if the seminarists are not allowed to smoke they will smoke anyhow, is a libel on the character of the American seminarist, betokens weakness on the part of superiors, and misapprehends the true nature of the American candidate for the priesthood." His comment on smoking in general is that it is "an uncleanly, if not filthy, habit." . . . The canonist who styles himself Ὁ ΘΑΡΣΕΥΣ writes on the way in which the canonical visitation of a parish is to be conducted by a bishop. A note is appended to the article with the information that a *Manual,* containing the ceremonies for the episcopal visitation of parish churches, the administration of the Sacrament of Confirmation, and other kindred functions for this occasion is being sent as a supplement to all subscribers of the *Review* with the current issue. . . . A pathetic contribution to this number is an article by Alfred Loisy, commenting on Our Lord's words: "Ecce, ego vobiscum sum, etc." (There seems to be no indication in the article of the heretical views which subsequently stamped the author as one of the leaders of Modernism, although one is tempted to wonder what Loisy meant by the statement that "the formula [the form of Baptism] has been fixed in its precise meaning by the Church"). . . . Fr. J. F. Sheahan writes on the text: "Be ye perfect, as your heavenly Father is perfect," which he paraphrases as: "Be ye as catholic in your love as your heavenly Father is catholic." . . . In solving a moral case, Fr. Sabetti, S.J., expresses the view that there is no *divine* law obliging the faithful to hear Mass or a priest to celebrate Mass, even a few times a year.

F.J.C.

DOCTRINAL DEVELOPMENT AND THE ASSUMPTION OF OUR LADY

PART I

In a previous article[1] an effort was made to delineate the formal elements that enter into doctrinal development. It was maintained that there are three factors that enter into such development, *viz.*, the deposit of revelation, the work of the Fathers and theologians, and the action of the infallible magisterium. Out of these three elements was constructed a pattern for the study of any development of doctrine. While in itself this pattern was a general formulation and so patient of wide application, it did have in view the teaching on the Assumption of our Lady, since this doctrine is very much to the fore at present. The more basic reason, though, was that this doctrine offers such a variety of problems and facets to the student of doctrinal development that it constitutes an excellent testing ground for any effort to formalize the elements of development in general. Thus the point of this and succeeding articles is not so much a study of the definability of the Assumption[2] as an analysis of it in the light of the principles laid down in the previous article.

In order to specify the exact approach that characterizes these articles several qualifications must be noted. First, it is not an apologetic for the doctrine, though parts of it may be so employed. Hence it does not seek to treat the purely historical validity of this teaching in view of the non-Catholic mind. Secondly, although it necessarily makes use of the theological method it is not, as such, a piece of theological argumentation. Finally, it is not to be conceived of in terms of the psychology of development or its analogy to the development that takes place in any human mind concerning a truth. In short, the proper concern of these articles is *theological*, i.e., development insofar as it concerns divine and unchanging truths. And because it is a study of dogmatic development from a strictly theological point of view it must take as its point of departure the magisterium of the Church.

[1] "The Framework of Doctrinal Development," *AER*, CXV, 6 (Dec. 1946), 419 ff.

[2] Cf. P. Renaudin, *La définibilité de l'assomption de la très sainte vièrge* in *Revue thomiste*, VIII, IX, X (Jan. 1901 and seq.), for a full and detailed treatment of the question of definibility.

THE MAGISTERIUM AND DOCTRINAL DEVELOPMENT

The necessity for beginning with the magisterium of the Church rests on a number of points. In general it arises from the fact that the Church alone is, in St. Paul's phrase, "the pillar and ground of the truth."[3] For it is the Church that possesses the entire deposit of revelation and it alone has the right and office of proclaiming this revelation infallibly.[4] So, though the theologian may be a witness to revelation,[5] it is the Church that actually teaches it. Hence whatever be the theological rules laid down for the investigation of revelation, the theologian may not abstract from the magisterium of the Church.[6] In fact, once he abstracts from this magisterium he has set aside the only guide that can unerringly determine what is revealed and what is not revealed.

More specifically, a theological analysis of a particular doctrinal development is an effort to determine whether something presently taught, and as yet undefined, is the term of a true dogmatic process. If it be judged that such a development has taken place then it is asserted, at least by implication, that this teaching is definable as a dogma. For a judgment that this is a true development necessarily implies that this doctrine is contained in the deposit of revelation. This follows from the fact that for a truth to be proposed as divinely revealed, or a dogma in the strict sense,[7] it must be contained in the deposit of revelation.[8] Therefore, when it is a question of dogmatic development, the first inquiry is whether or not it is contained in revelation. And this question can only be definitely determined by making use of the magisterium as a guide. For, as the theologians teach, Scripture and tradition must be witnessed to and interpreted by the Church, which alone is capable of determining infallibly what truths belong to the apostolic tradition.[9] Just as the Church is the proximate norm of belief, then, so also is it the proximate norm or criterion of the apostolic tradition through which revelation comes to us.

[3] *1 Tim.* 3: 15.

[4] Cf. *DB*, 1798.

[5] Cf. *ibid.*, 1793, and *Sum. theol.*, II-II, q. 10, a. 12.

[6] Cf. Diekamp, *Theologiae dogmaticae manuale*, I, 68.

[7] *Ibid.* p. 14.

[8] Cf. *DB*, 1792, and *Sum. theol.*, II-II, q. 2, a. 2.

[9] *E.g.*, some Jansenists and the Old Catholics.

One last point should be included here regarding the place of the magisterium in a theological study of this kind. As is evident, any study of dogmatic development is necessarily a study of tradition. And in the determination of tradition the theologian must take his stand upon the magisterium as against those who hold that the determination of tradition is a matter of scientific historical investigation only.[10] As a theologian he must hold that this function is the proper office of the Church. The reasons for such a position is that even the most diligent and scientific investigation of the fonts gives only a natural or historical certitude. Yet if, as in this case, it is a matter of revealed truth, it calls for the certitude of divine faith and only the Church can rightfully impose such an obligation. So much then for the reasons why this study takes as its starting point the magisterium of the Church.

THE MAGISTERIUM AND THE ASSUMPTION

In order to make proper use of the magisterium as a guide for the study of the doctrinal development of the Assumption two points must be settled. First, exactly what is meant by the Assumption of our Lady. Secondly, does it have a strictly dogmatic character, i.e., does any of the teaching on the assumption fall within the scope of the primary object of the magisterial office, which is to proclaim and interpret revealed truth.

The doctrine of the Assumption. As stated by the theologians the Assumption of our Lady signifies that after her death both the soul and the body of the Blessed Virgin Mary were assumed into heaven.[11] There are, therefore, three points involved in this teaching: Mary's death; the assumption of her soul into a state of heavenly beatitude; the resurrection and assumption of her body into heaven. If any one or all of these points are dogmatic, in the sense of necessarily implying revelation in order to be known then they fall within the ambit of the Church's infallible teaching office.

The dogmatic character of the teaching on the Assumption. (A) Her death. This represents an historical fact which could be witnessed to historically. However, if there is no witness to it and it is

[10] Cf. Franzelin, *De divina traditione*, 64 ff., 289 ff.

[11] Cf. *infra*, notes 34 ff.

possible to infer that she may have been an exception to this common lot, then there is the possibility that this fact may be known only from revelation. For, if it is possible to infer that Mary did not actually die[12] and there is no actual witness to testify to her death as an historical fact, then the only source left is revelation. Again, it may have a dogmatic character if the fact of Mary's death is witnessed to as a part of revelation, i.e., revealed to the apostles for transmission to the Church. In either case it may be safely stated that the fact of Mary's death has possible dogmatic implications.

(B) The assumption of Mary's soul into heaven has definite dogmatic implications. It immediately impinges upon two truths proposed by the Church. The first of these is the teaching of Benedict XII, who defines that the souls of the just who die without need of further purging or cleansing enjoy the state of heavenly beatitude soon after death and before the last judgment and the resurrection of their bodies.[13] This is also stated by the Fourth Lateran Council and affirmed by the Council of Florence.[14] It is also taught authoritatively that Mary was preserved free from every stain of sin[15] even venial and this by a special divine privilege.[16] Nor may it be held that Mary died because of Adam's sin or that her afflictions were punishments for actual or original sin.[17] So it is at least proximate to faith that Mary was sinless.[18] From these two points it follows that Mary now enjoys the Beatific Vision. Such a conclusion can only be affirmed infallibly by the Church. And if it is affirmed it means that it is derived from revelation and was made known to one or more of the apostles.[19]

(C) The resurrection and assumption of Mary's body into heaven also directly involve dogma. There is no question but

[12] Cf. Dominic Arnaldi (*Super transitu B.V.M. deiparae expertis omni labe culpae originalis dubia proposita*), who holds this position.

[13] Cf. *DB*, 530.

[14] Cf. *ibid.*, 464, 693.

[15] Cf. *ibid.*, 833, 1641.

[16] Cf. *ibid.*, 1073.

[17] Cf. Ferland, *Commentarius in summam D. Thomae* (*De Verbo Incarnato*), p. 403.

[18] Cf. *ibid.*

[19] Cf. *AER*, CXV, 6 (Dec. 1946), pp. 421 f.

that the Church has taught from the beginning that the bodies of both the just and the wicked will be raised up again.[20] It is also of faith that this resurrection of bodies will take place on the last day at the general judgment. This is clear from the profession of faith formulated by the Fourth Lateran Council: "We firmly believe and simply profess that . . . Jesus Christ shall come at the end of time to judge the living and the dead . . . be they the elect or the reprobate and all these shall arise with their own bodies."[21] The testimony of Scripture is equally clear upon this point. For example, in the sixth chapter of St. John, Christ states: "This is the will of the Father who sent me that every one who sees the Son and believes in him shall have eternal life and I shall raise him up on the last day." The consistent teaching of the apostles on this point is evident from a reading of the Acts of the Apostles.[22] Thus there is a certainly revealed proposition that the bodies of the just and the wicked shall be raised up again. The general law, also revealed, is that this resurrection will not take place until the last day. If, then, the body of the Blessed Virgin has been assumed into heaven soon after death or even immediately without dying[23] there is present an exception to this general law. The teaching of the Assumption necessarily implies, then, that for such an exception to be known as a fact, revelation would be called for. Hence this third point necessarily involves dogma, since it can not be known by the senses nor established by human authority.[24]

THE TEACHING OF THE MAGISTERIUM ON THE ASSUMPTION

Granted that, if it be true, the doctrine of the Assumption has direct and inescapable dogmatic consequences, the next step is to survey the action of the magisterium concerning this teaching. In other words, is there any authentic or authoritative proposal of this doctrine? But in order to answer this question an extensive

[20] Cf. *DB.*, 2, 13, 40, 54, 86.

[21] *Ibid.*, 429.

[22] Cf. *Acts*, 4:1-2; 24: 14-15; 26: 6.

[23] Cf. *supra*, note 12.

[24] This is the very point made in the petition presented at the Vatican Council for the definition of the Assumption, cf. *Acta et decreta sacrorum conciliorum recentiorum*, VII, 868.

inquiry into the *ordinary* magisterium[25] is called for, since there are no solemn judgments on the subject nor have there been any explicit doctrinal definitions or decisions handed down. Such an inquiry therefore will concern itself with exploring three possibilities: (A) the teaching of the official members of the magisterium; (B) the liturgy; (C) the witness of the fathers and theologians. For it is from these sources that positive affirmations of the ordinary magisterium come forth.

(A) *The teaching of the official members of the magisterium.* Perhaps the most efficient way to investigate this possibility is to follow as a pattern the Church's legislation on the ecclesiastical magisterium.[26] The exercise of the magisterium is treated by the Code of Canon Law under four main headings: *De divini verbi praedicatione; De seminariis; De scholis; De praevia censura librorum eorumque prohibitione.* Wernz-Vidal in commenting on this section points out that these are the principal means by which the Church accomplishes the three-fold end of the magisterium, which is the propagation, preservation and defense of the faith.[27] Accordingly it is under these headings that the teaching of the members of the magisterium will be organized.

The preaching of the divine word offers three sources of magisterial material: catechetical instruction; sermons; missions. The last two will be omitted here because of the difficulty of covering so extensive a field in an article of this length. Moreover, it is only the first that offers a really definite possibility because catechetical instruction is ordinarily channeled through approved catechisms or is derived from them. This, in turn, furnishes to the inquirer a definite and permanent source, something which would be most difficult to find in the matter of sermons and missions.

Since the Council of Trent, at least, the catechism has been the prescribed basis for catechetical instruction of the faithful. This is also the mind of the Vatican Council, and our own Plenary Council of Baltimore insists upon this means.[28] Further, the Vatican fathers discussed and elaborated the schema which made

[25] Cf. *AER*, CXV, 6 (Dec. 1946), 436 ff.

[26] *Codex juris canonici* III, pars iv, Canons 1322 ff.

[27] Cf. *Jus canonicum*, IV, *De rebus*, vol. ii, 4.

[28] Cf. *Acta et decreta Conc. Balt.* II, n. 387; III nn. 217 ff., 281.

the official Roman Catechism the basis of such catechetical books. Both the discussion and the schema itself make it clear that what was sought was uniformity in catechetical instruction throughout the Church and that the Roman catechism was the best means of obtaining this uniformity.[29] It for this reason that the Roman Catechism edited by Cardinal Gasparri has especial weight and value in an inquiry such as this. First of all, it entailed a careful judgment by a large number of theologians. Secondly, it has papal approbation for its use in the Catholic world. Moreover it has been translated into a number of languages and its vernacular editions have received episcopal approval in a large number of individual dioceses. All this combines to give to the Roman Catechism a distinct and unique currency and a very large measure of authority. To this might be added a large number of other catechisms and approved books of catechetical instructions that are either based on it or adaptations of it.[30] Mention should also be made of the official Baltimore Catechism through which so many American Catholics have received their instruction in the faith. Taken collectively they may be said to be the expression of episcopal preaching.

A reading of these catechisms bears witness to the fact that they teach the doctrine of the Assumption clearly and decisively. Since, as has been seen, the Assumption has a definite dogmatic character then at least by necessary inference there is present in this teaching a dogmatic proposition pertaining to the deposit of the faith. Keeping in mind that such a proposal is only infallible when morally unanimous, still from the facts at hand there is present the premise of a very strong argument that such unanimity exists with regard to the Assumption of our Lady.

Seminaries are given equal status with the preaching of the Word of God as exercises of the ecclesiastical magisterium.[31] The legislation concerning seminaries leaves no doubt but that the responsibility for them is the bishop's.[32] And this responsibility extends not only to administration and support but includes what

[29] Cf. *Acta et decreta sacrorum conciliorum recentiorum*, VII, 663 ff.

[30] *E.g.*, *The Catholic Faith* (A Catechism), edited by Kirsch.

[31] Cf. Wernz-Vidal, *op. cit.*, p. 5.

[32] Cf. Canon 1357, §§1, 2, 3, 4.

is taught. The thought behind such legislation is beautifully expressed by the Second Plenary Council of Baltimore:

> . . . that singular power and force of teaching and persuading which was miraculously bestowed on the Apostles at the inception of the Christian religion, now in accordance with the ordinary law of divine Providence is only to be achieved by their successors through long and arduous toil. Hence the Church has always been greatly solicitous to bring about the establishment of schools and colleges in every place so that in them there might be handed down that sacred knowledge which the lips of the priest ought to keep and which he should furnish to the people who seek the law from his lips.[33]

It is in the seminaries therefore that the coadjutors of the bishop's magisterial office are trained and given the Catholic doctrine that they are to deliver to the faithful by the authority and in the name of the bishop. From this it may be inferred that the bishop must approve the doctrine taught in his seminary either explicitly or implicitly. And this would be a distinct and important exercise of his magisterial function. Using this as a guide, one may then ask the specific point of this inquiry: is the doctrine of the Assumption taught in the seminaries? If this be the case, then such teaching may be deemed an expression of the episcopal magisterium on the point.

That the doctrine of the Assumption is actually taught in the seminaries is readily evidenced by simply citing the theological manuals that are more commonly used in the training and instruction of seminarians. Thus, ¡Hervé,[34] Tanquerey,[35] Pesch,[36] Hugon,[37] Diekamp,[38] Lercher,[39] and Ferland[40] all set forth the doctrine of the Assumption. This, of course, does not mean that the ordinary magisterium is expressing itself in a formal and universal way but only that such seminary usage is clear-cut testimony to the fact that episcopal consent to the doctrine is

[33] *Acta et decreta Conc. Balt.*, II, n. 170.

[34] Cf. *Manuale theologiae dogmaticae*, II, 637.

[35] Cf. *Synopsis theologiae dogmaticae*, II, 824 f.

[36] Cf. *Praelectiones dogmaticae*, IV, 298.

[37] Cf. *Tractatus dogmatici*, II, 770.

[38] Cf. *op. cit.*, II, 429-34.

[39] Cf. *Institutiones theologiae dogmaticae*, III, 319 f.

[40] Cf. *op. cit.*, 419-24.

widespread and common. This logically follows from the fact that the manuals which ordinarily furnish the basis for theological instruction in seminaries present this doctrine for the instruction of the candidates for the priesthood. And it is this approved instruction that is an exercise of the magisterial office.[41]

A further witness to the teaching of the members of the magisterium may be adduced here. It involves the previous censure of books and articles. Such censure, however, looks directly to the preservation and defense of the faith rather than its diffusion and hence is not so much a distinct argument as a corroborative one. Taken in this sense it does offer confirmation of what has been already seen. If, for the sake of brevity, the investigation on this point is confined to the last seventy-five years[42] numerous books, pamphlets, and articles on the Assumption are available. During this period articles, studies, and treatises have been written by American, English, French, Italian, Spanish, and German authors, and have appeared with episcopal approbation.[43] Taken together their appearance is, at the least, a well-founded indication of the mind of those who constitute the magisterium over a wide section of the Church.

The above points conclude this inquiry into the teaching of the members of the magisterium. The record, however, would be incomplete without some notice of the petition presented to the Vatican Council asking that the Assumption be defined. Signed by at least 195 bishops it attests to a formal consent on their part since they urge a dogmatic definition because: " . . . unless one is willing to term the most firm faith of the Church in the Assump-

[41] Religious instruction in schools may also be cited but this is not so direct or immediate as that in Seminaries and in practice it relates itself back to the material regarding catechetical instruction. However it is treated by the Code under the magisterium of the Church. Cf. Canons 1372-83.

[42] It is also a question here of availability, plus the impetus given to the study by the definition of the Immaculate Conception.

[43] To cite but a few: "Ueber die Definierbarkeit der Himmelfahrt Mariae." *Scholastik* 1926 and 1928; Favier, *L'assomption corporelle de la Mère de Dieu* (Paris, 1926); Gordilla, *La asuncion de Maria en la iglesia española* (Madrid, 1922); O'Neill, "Assumption of the Blessed Virgin according to the Teaching of Pius IX and St. Thomas," *Irish Ecclesiastical Record*, XXX, 113 ff.; Friethoff, "De doctrina assumptionis corporalis B. Mariae V. rationibus theologicis illustrata," *Angelicum*, 1938, pp. 3 ff.; O'Connell, *Mary's Assumption* (New York, 1930).

tion of the Blessed Virgin an extremely ill-founded credulousness (an impious thought indeed) then without doubt this doctrine is of divino-apostolic tradition, i.e., it must be most firmly held that it has its source in divine revelation."[44] Obviously one may not argue universal consent from this petition but its formal character and the circumstances of its presentation bespeak a definite and explicit consent to it by a goodly section of the magisterium.

(B) *The Liturgy.* The legitimacy of this exercise of the ordinary magisterium may be derived from the axiom of Pope St. Celestine: *Legem credendi lex statuat supplicandi.*[45] Pius XI in affirming this principle explains that "the liturgy is a sacred thing for through it we are lifted up to God and joined to Him, bearing witness to our faith and binding ourselves to Him by a most weighty obligation. Hence there is a certain intimate and necessary connection between Christian worship and the sanctification of the people."[46] Error in this case would mean that the clean and supernatural oblation made to the God of truth could be infected with error and heresy.[47]

Sifting the liturgical evidence for the Assumption it is immediately apparent that this teaching is certainly covered by the *lex supplicandi.* In canon 1247 of the Code it is legislated that the feast of the Assumption is one of the ten *sub praecepto* feasts for the whole Church. In addition to this law, the Mass and office appointed for this feast make it plain that the liturgy is attesting to the fact of the Assumption with its specific dogmatic character. For while it is true that most of the Mass is quite general there are none the less several definite statements in the prayers. The lessons for the office of the feast and its octave expressly teach the corporeal assumption of our Lady into heaven. Benedict XIV notes the dogmatic significance of the excerpts from the sermons of St. John Damascene and St. Bernard in his study on the Canonization of Saints:

> . . . if the Church not only celebrates the Assumption of the Virgin into heaven on the 15th of August and the following days but also

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[44] *Acta et decreta sacrorum conciliorum recentiorum*, VII, 663.

[45] *DB*, 139.

[46] *DB*, 2200.

[47] Cf. Benedict XIV, *De beatificatione*, I, 306 ff.

takes for the reading of the faithful the homilies of St. Bernard and St. John Damascene which affirm the assumption of her body and soul into heaven then it is apparent that her authority and approbation may in no wise be doubted.[48]

The liturgical use of these lessons then is a sign of the mind of the Church on the Assumption; but it does not mean or warrant the acceptance of the details and setting given by the authors as necessarily historical. Such details may well be apochryphal and their presence in the office does not imply infallible indorsement. For infallible approval looks only to the dogmatic content. To think that the Church infallibly sanctions points having no connection with dogma that cannot be historically verified or are open to scientific criticism and investigation is to confuse the objects of infallibility and theology with that of history. Infallibility only verifies liturgical expression when such expression is concerned with dogmatic material. In the case of the Assumption in the liturgy it is only the resurrection of Mary and the presence of her body and soul in heaven that can be the object of approbation by the ordinary magisterium through the liturgy. And these points are completely distinct from the circumstances in which they are set by writers such as St. Bernard or St. John Damascene. This holds whether the purported circumstances are true or false, as long as they involve only a matter of historical or sensible witness.[49]

Mention should be made here of another argument that Don Renaudin the Benedictine writer, draws from the present liturgical feast of the Assumption. It is an ingenious and interesting point and not without value. He is of the opinion that the very title of the feast, *Assumptio Beatae Mariae Virginis* conveys something of the mind of the Church on the subject. His contention is based on the etymology of the word and especially upon its scriptural usage. The scriptural usage is drawn from such texts as: *Jesus postquam locutus est eis assumptus est in coelum;*[50] *Usque in diem qua . . . assumptus est . . . ;*[51] *Hic Jesus qui assumptus est a vobis in coelum.*[52] The learned Benedictine argues that such usage shows that the inspired writers here are describing the

[48] *Ibid.*, pp. 308 f.

[49] Cf. Renaudin, *op. cit.*, X, 192 f.

[50] *Mark*, 16:19.

[51] *Acts*, 1:2.

[52] *Acts*, 1:11.

lifting up to heaven of the humanity of Jesus by the divine power. So the ascension is at the same time the assumption because the human nature cannot raise itself up to heaven. From this he concludes that when the term assumption is applied to Mary, it is intended to bring out this same point, namely that she too is raised by the divine power. Though this is an interesting point its independent probative force is a bit debatable. Some corroboration may be offered, however, by the action of the congregation appointed by Benedict XIV for the reform of the Breviary. In their discussion of the feasts of our Lady the question was raised as to whether it might not be well to substitute the more ancient liturgical title *Pausatio*, *Dormitio*, or *Transitus* for the title *Assumptio*. The reason for the question was lest the retention of Assumptio would make the Church appear to be elevating a pious belief into an article of faith. The title *Assumptio* was retained unanimously.[53]

In addition to this evidence drawn from the present day liturgy there is the history of the feast itself. Even though some of its earlier stages are controverted, what there is of certainty adds weight to what has already been seen. In general it is agreed that it was the attack of Nestorius on the divine maternity that gave impetus to a widespread cultus in honor of Mary. This of course does not preclude the possibility that liturgical feasts in honor of our Lady were already in existence in some sections even before the Council of Ephesus.[54] After the Council what liturgical feasts there were seem to have centered on Mary's divine maternity and then gradually special observances came into being such as feasts in honor of the Annunciation, Presentation, Nativity, and Assumption of Mary.[55]

The exact period that marks the earliest appearance of a feast in honor of the Assumption is debated. Tillemont holds that

[53] Cf. Batiffol, *History of the Roman Breviary*, p. 252. Suarez is also of the opinion that the title *Assumptio* is an expression of the corporeal resurrection of Mary as distinct from *transitus* or *pausatio*. Cf. Quaest. XXXVIII, art. IV; disp. xxi, sect. ii, n.5.

[54] Cf. Jugie "La mort et l'assomption de la sainte Vièrge dans la tradition des cinq premières siècles," *Echos d' Orient*, XXV, 281, and the same author's article "La première fête mariale," *Echos d'Orient*, XXII, 129-52.

[55] Cf. *ibid.*

there was such a feast by the middle of the fourth century.[56] He also holds that there are references to the Assumption in sermons of Cyril of Alexandria and Proclus.[57] But at best his argument for the fourth-century feast is only an educated guess and the sermon references are much more reasonably explained in terms of the title of the church in which they were delivered.[58] Others see an allusion to such a feast in Theodore's life of St. Theodosius, written about 530. The passage describes a miracle worked by the saint on the *Memorial Day of the Mother of God*, Memorial Day is here taken by Tillemont as a reference to Mary's death-day.[59] Most students of the subject are agreed that this conclusion is not justified by the evidence, since all that the writer has in view is the fifth century memorial of the divine maternity itself. This is borne out by the fact that the homilies on this occasion make no mention of either the death or the assumption of the Blessed Virgin.[60]

In the West, the feast of the Assumption does not seem to have been celebrated in Rome before the seventh century, since there is no mention of it in the liturgical documents prior to that period. Its earliest documentary appearance in Rome seems to be the Gelasian Sacramentary. Outside of Rome there is the Missal of Bobbio, a sixth or seventh century liturgical book, containing a Mass for the feast which includes this statement: "De mundo migravit ad Christum, germine gloriosa assumptione secura paradisi dote praelata . . . non subdita labore per partum nec dolore per transitum."[61] The *Missale Gothicum* of the seventh or eighth century makes even more specific references. In the collect for the feast is read: "Fusis precibus Dominum imploremus, ut ejus indulgentia illuc defuncti liberentur a Tartaro, quo beatae Virginis translatum corpus est a sepulchro."[62] And in the *Contestatio* for the feast the Blessed Virgin is spoken of in this wise: "Nec resolutionem pertulit in sepulchro, pollutione libera,

[56] Cf. *Memoires pour servir à l'histoire ecclésiastique*, I, 475 ff.

[57] Cf. *Ibid.*, p. 476.

[58] Cf. Baumer, *Geschichte des Breviers*, p. 185, and Usener, *Der Heilige Theodosius*, p. 38.

[59] Cf. Jugie, *op. cit.*, p. 282.

[60] Cf. Jugie, *op. cit.*, p. 282.

[61] Bradshaw Texts, *The Bobbio Missal*, pp. 40 f.

[62] *Ibid.*, *The Missale Gothicum* I, 30 f.

germine gloriosa assumptione secura paradisi dote praelata."[63] The Gregorian Sacramentary, probably of the eighth century, has this prayer: "*Veneranda nobis Domine hujus diei Festivitas opem conferat salutarem in qua Sancta Dei Genetrix mortem subiit temporalem, nec tamen mortis nexibus deprimi potuit quae Filium tuum de se genuit incarnatum.*"[64] Benedict XIV, commenting on this oration, says that the words *mortis nexibus* mean nothing else than that corruption of body from which Mary was freed by her triumphal assumption into heaven.[65] A reading of all the passages quoted makes it clear that this feast of the Assumption celebrated Mary's corporeal resurrection and her presence in heaven. And the fact that this feast is present in these liturgical compilations certainly justifies the supposition that its celebration was already an accepted fact before the compilation of these collections took place.

The widespread and definite approbation of the feast itself is signalized in the West by the fact that Pope Sergius I (c. 700) added to its celebration a procession and litanies.[66] The mere fact of an addition is an indication that the feast was already an established fact. From 847 on it was solemnized with an octave by order of Pope Leo IV, who may have added the vigil.[67] Something of the antiquity of the feast may be derived from the letter of Pope Nicholas I to the Bulgarians. Discussing the matter of fasting, he mentions that the Roman Church has received and holds from antiquity the fast before the solemnity of the Assumption of the Holy Mother of God.[68] The nature of this solemnity and the beliefs which it rested upon are marked in an eleventh century processional hymn which has come down to us.[69] To some extent its universal character is attested to by its inclusion in the decretals of Gratian.[70]

In the East there is a definite date marking the wide extent of the celebration of the feast. It is the promulgation of a decree of

[63] *Ibid.*

[64] Leitzmann, *Das Sacramentarium Gregorianum.*

[65] Cf. *De festis*, II, c. viii, p. 281.

[66] Cf. *Liber pontificalis* (edit. Duchesne), I, 376.

[67] Cf. Benedict XIV, *op. cit.*, p. 287.

[68] Cf. *ibid.*

[69] For this hymn cf. Schuster, *The Sacramentary*, V, 35 ff.

[70] *Corpus juris canonici*, pars prior, De consecratione, dist. iii, c.i, p. 1353.

Maurice, the Byzantine emperor, ordering that its celebration be held on August 15.[71] Benedict XIV remarks that whereas Nicephoras, who tells of this decree, says that Justinian ordered the feasts of the Presentation and the Nativity of Christ to be celebrated throughout the world, he merely mentions that Maurice set a uniform date. The implication is that the feast was already of ancient and universal observance in the East. The teaching of the oriental liturgy is also quite clear on the doctrine.[72] To this might be added the liturgy of the Nestorians and the Copts with the reservation that their liturgical expressions seem to be drawn largely from the Apochrypha.[73]

In conclusion it may be said with certainty that by the end of the seventh century the Assumption was an accepted feast in the whole Church. As one of the four great Marial feasts in the East and West its liturgical status is sealed by the approbation of the Church. In this connection special attention should be paid to its liturgical importance in the Apostolic See itself. For the action of the Roman Church is of prime importance in any consideration of the ordinary magisterium. Thus the feast of the Assumption with its dogmatic implications has wide currency and a clear-cut approval of a great part of the Church. In view of all these points it would be most difficult to maintain that there is no clear expression of the mind of the magisterium on this doctrine in both the modern and ancient liturgy.

Besides the feast of the Assumption itself there is another source of liturgical teaching that corroborates what has been set down and that is the feast of the Most Holy Rosary. The presentation of this point, however, offers something of a technical difficulty. First, the recitation of the Rosary as approved does not fall within the object of the liturgy technically speaking. Nevertheless, some understanding of that devotion and its history should precede any inquiry into the liturgy of the feast. Secondly, the universality of the rosary devotion might be used as expression of the *sensus fidelium*, and thus be a distinct argument in itself. But weighing these considerations it seems better to run the risk of both digression and overlapping and treat the whole matter here.

[71] Cf. Benedict XIV, *op. cit.*, p. 288.

[72] Cf. *ibid.*

[73] Cf. Jugie, *Theologia dogmatica christianorum orientalium* V, 273 f., 570 ff.

By way of preliminary to the discussion of the rosary and its recitation some notice should be taken of the controversy over its historical origins. The ordinary opinion is and has been that this devotion as we now have it has as its source St. Dominic. It is an opinion which has very strong papal support even from scholars like Benedict XIV.[74] More recent research has tended to cast varying shades of doubt upon this opinion. Foremost among its opponents is the learned Jesuit Father Thurston, who holds that the devotion is the result of a gradual historical growth.[75] Nor are his findings on this matter to be waved aside as a scholarly *tour de force* or mere iconoclasm. His facts and the arguments he deduces from them are too well authenticated and too cogent for such treatment.[76] But whatever be the solution of this controversy the aim of this section is not dependent upon it since its concern is rather with the *mysteries* that are attached to the recitation of the Rosary.

The documentary evidence for meditation subjects being attached to the saying of the rosary does not seem to extend back beyond the fifteenth century. The Dominican Father Esser in his study of the matter[77] attributes their origin to a Carthusian, Dominic of Treves (1408). Fr. Esser holds that Dominic of Treves' *clausulae* are the first stage of what are now our present day mysteries of the rosary.[78] One of these *clausulae* is attached to each *Ave* but the one that is of moment here is the forty-eighth, which reads: *Qui te dilectissimam matrem suam tandem ad se assumpsit ad dexteram suam collocavit et gloriose coronavit.*[79] Fr. Thurston, however, introduces an even earlier possibility in an English devotional hymn of the early fourteenth century. It is entitled "How our Levedi Sauter was ferste founde" ("How our Lady's Psalter was first made"), and in the course of the poem it is brought out that the *Aves* are to be said in honor of (a) the Annunciation and Incarnation; (b) the Nativity; (c) the As-

[74] Cf. *op. cit.*, c. xii, p. 297.

[75] Cf. "The Rosary," *The Month*, XCVI (Oct., Nov., Dec., 1900), 403, 513, 620.

[76] Without having read the original documents, and confining this study to the modern controversy, this writer is inclined to agree with Fr. Thurston.

[77] Cf. "Beitrag zur Geschichte des Rosenkranzes" *Der Katholik*, 77², (1897).

[78] Cf. *ibid.*, p. 518.

[79] Cf. *ibid.*, p. 416.

sumption and Glory of Mary.[80] It is with the end of the fifteenth century, though, that these meditations assume a fairly definite form. There is a work dated 1489 and titled *Unser Leiben Frauwen*, which explains the method of reciting the rosary. It includes woodcuts which portray in three distinct groups what are now called the joyful, sorrowful, and glorious mysteries. (The glorious mysteries include the Assumption and Glory of Mary.) The actual use of the term "mystery" to describe these meditation subjects is first found in a work written by Alberto de Castello O.P. *Rosario della gloriosa Vergine* (c. 1521).[81]

The spread of the rosary devotion is attributable primarily to Alan de Rupe, the Dominican, whose preaching and establishment of confraternities planted it so firmly that by 1500 it was in almost every part of Europe. From this time on to our present day there are in existence enthusiastic papal indorsements of the devotion.[82] These approbations carry with them rich indulgences and exhortations to make use of the approved method of reciting the rosary. Typical is Leo XIII, who writes of the mysteries: "The Rosary offers an easy way to present the chief mysteries of the Christian religion and to impress them on the mind . . . they are proposed less as truths or doctrines to be speculated on than as present facts to be seen and perceived."[83] From all this it is apparent what standing the rosary and its mysteries have in the devotional life of the faithful. Since, too, it is so highly approved, it is no far-fetched deduction to see in this approbation at least an implicit indorsement of the Assumption which is included among these mysteries.

If to this devotion be added its liturgical expression in the feast of the Most Holy Rosary there seems to be no reasonable doubt as to its authoritative character. Gregory XIII, in his Bull *Monet apostolus* of April 1573, is the first to establish the feast. Recalling the victory at Lepanto in 1571, he sets the first Sunday of October as the festival day, assigns to it the rank of a double major, and decrees its observance in the churches that have an

[80] Cf. *op. cit.*, pp. 417 f.

[81] Cf. *ibid.*, pp. 626 ff.

[82] *E.g.*, the number of indulgences the Popes have attached to the saying of the Rosary.

[83] Cf. the collection of Leo XIII's encyclicals and letters on the Rosary in *The Rosary of Mary* (Lawlor), St. Anthony Press, 1944.

altar of the rosary. Clement X extended this feast and its office to the whole Spanish kingdom as well as to Italian churches and cities. Clement XI ordered that the feast and its office be celebrated by the whole Church and had new lessons prepared for it.[84] Leo XIII affirmed this and gave to it a new office and raised it to the rank of a double of the second class.

The liturgical approbation of the feast being evident, the next stop is to see what it teaches concerning the Assumption. A reading of the Mass shows at most a general reference. The oration reads: " . . . grant we beseech thee that meditating on these *mysteries* of the most holy Rosary we imitate what they contain and obtain what they promise." The secret prayer contains these words: " . . . by means of these *mysteries* of the most holy Rosary make us so to keep in mind the life, passion, and glory of thine only begotten Son that we may be made worthy of His promises." In the postcommunion is found the petition: " . . . that we may draw strength from the *mysteries* which we reverence." The use of the term *mysteries* with its historical implications allows a legitimate inference that among these mysteries is included the Assumption.

The implication found in the prayers of the Mass finds explicit confirmation in the office appointed for the feast. The second nocturne, explaining how the rosary is to be said, states that " . . . by pious meditation we are to reverence the mysteries attached to each decade." The fourth antiphon for lauds explicitly honors the Assumption in these words: "Mary has been assumed into heaven: the angels rejoice and in their praises bless the Lord." The hymn for lauds lays emphasis on the same theme: "Loosed from the burden of the flesh the Virgin is taken up to heaven: she is received with celestial joy and angelic song. Twelve stars crown the brow of the glorious Mother and by the side of her Son's throne she reigns over all created things."

This consideration of the Feast of the Rosary concludes the investigation of the liturgical teaching on the Assumption. There is no need to recapitulate these findings or to re-state the conclusions already set down. It suffices here to say that the presence of the doctrine of the Assumption is sufficiently evident and

[84] Cf. Benedict XIV, *op. cit.*, p. 296. Benedict XIV as Cardinal de Lambertini was in the Curia under Clement XI and took part in the choice of the office and Mass. Cf. *De beatificatione*, IV, 170.

sufficiently universal to apply with a high degree of certainty the axiom: *legem credendi lex statuat supplicandi.*

(C) *The Witness of the Fathers and Theologians.* The men are treated here from only one point of view—their status as witnesses to revealed truth. It is not the business of this particular section of the study to analyze, weigh, or evaluate their arguments, reasons, and sources, since that will be the object of the next article. Here, in determining the part they play in the magisterial activity of the Church only two questions are of moment: first, do they furnish consent to this doctrine? and second, is that consent morally unanimous? It is this moral unanimity that is the specifying factor when it is a question of the *Ecclesia docens.* For the testimony of the Fathers is only without error when they unanimously propose some doctrine as revealed. In the case of theologians approved by the Church it is their moral unanimity that makes their consent a certain argument for the fact that a doctrine belongs to the deposit of faith. The general reasoning behind this position was forcefully expressed by Lanfranc when he challenged Berengar's teaching on the Eucharist:

> Ask all those who have come to a knowledge of our Latin tongue or literature. Ask the Greeks or the Armenians or Christian men of whatsoever group you will: they testify with one voice that they hold this faith. Now if the faith of the universal Church turns out to be false either there never was a Catholic Church or it has perished. For nothing brings about the death of souls so effectively as a pernicious error. But no Catholic would agree that the Church has never existed or that it has perished.[85]

The Witness of the Theologians. Present day theologians generally classify their exposition of the doctrine of the Assumption under its three main points. The death of Mary they teach to be certain from the unanimous tradition of the Church. The presence of her soul in heaven they commonly agree is proximate to faith. Her corporeal assumption they all qualify as theologically certain.[86] Perhaps the best way to sum up their consent is that there is no dissent amongst them and they would all look on a denial of the doctrine as most rash and erroneous. None hold that it is

[85] *Liber de corpore et sanguine Domini,* c. 22 (*MPL,* CL, 441A).

[86] Cf. *supra* notes, 34, 35, 36, 37, 38, 39, 40.

de fide, but many state that it is definable. This would represent the position of the theologians already noted as well as some of their immediate predecessors like Mazzella, Tepe, Hurter, and Scheeben.

Previous to this modern period there is a constant theological witness on the part of the great post-Tridentine theologians. To appreciate the unanimity and quality of that witness a number of them are mentioned here together with a summary of their thought on the point. Thus Dominic Soto (1560) states that while the Assumption is not an article of faith still it must be most piously believed.[87] Peter Canisius (1597) holds that anyone who speaks against the Assumption may not be erring against the scriptures but he none the less contradicts the most illustrious Fathers and with peril to himself turns away from a common acceptance that already has the force of law.[88] Melchior Cano (1560) concludes that while the Assumption is not of faith nevertheless a denial of it is so opposed to the common consent of the Church that it would be petulant rashness.[89] The great Jesuit theologian Suarez (1617) states that it is not *de fide* because it is not defined, but anyone who impugns it would be guilty of extreme rashness, and he accords the doctrine itself the same degree of certainty as the Immaculate Conception of our Lady.[90] The erudite Theophilus Reynaud (1663) writes that this doctrine carries so much weight that no obedient son of the Church could speak otherwise.[91] De Lugo (1660) holds that the opposite position is temerarious because it is opposed to the common teaching of the Fathers and theologians and has no real foundation.[92] In much this same vein is the witness of Bellarmine,[93] Billuart,[94] and Benedict XIV.[95] Any number of lesser figures might be

[87] Cf. *Comm. in IV sent.* dist. 43, q. 2, a. 1.

[88] Cf. *De deipara virgine*, V, c. 5.

[89] Cf. *De locis theologicis*, XII, c. 10.

[90] Cf. In III D. Thomae, quest. XXXVII, art. IV, disp. xxi, sect. 2 (*Opera omnia*, XIX, 317).

[91] Cf. *Dyptichis marianis*, VII, 220 (quoted from Benedict XIV, *De festis* II, 281).

[92] Cf. *De virtute fidei divinae*, disp. 20, sect. III, n. 96 (*Opera omnia*, II, 12).

[93] Cf. *Disputationes de controversiis*, t. IV, l. 4, c. 16.

[94] Cf. *Cursus theologiae*, III, diss. XIV, art. 2, p. 245.

[95] Cf. *De beatificatione*, I, 308 f.

added but the authority and approbation accorded these writers offers ample weight to this testimony. Their agreement does not make the doctrine an article of faith but it does make clear the fact that it is taught by the magisterium, and, in addition, their consent to this particular doctrine with its dogmatic implications furnishes a real argument that such teaching is drawn from the deposit of faith.

The theological picture would not be complete without some evidence drawn from the teaching of the medieval period. The great doctor of that period states simply that Mary together with her body was assumed into heaven and adds "we believe that she was raised up after death and borne into heaven."[96] In his commentary on the Apostles' Creed he remarks that whereas the resurrection of other men is deferred until the end of the world, by a special privilege Mary's is not.[97] St. Bonaventure, discussing the resurrection of the dead at the end of the world, writes that the divine justice requires that all rise at the same time save in the special case of Christ and his Blessed Mother.[98] Treating of Mary's excellence St. Albertus Magnus gives as a reason for that excellence her burial and assumption.[99] Later on in the same work he enlarges on this by noting that her body suffered no corruption but before the general resurrection was adorned with corporeal glory.[100] The cogency of all this teaching lies in the fact that these great scholastics take this doctrine as an accepted part of belief and employ it to illustrate or amplify other points. To their witness may be added the equally explicit testimony of Hugh of St. Victor,[101] Richard of St. Victor,[102] Peter Damien,[103] and St. Anselm[104]. The number of these theological witnesses could be easily enlarged, but enlargement is unnecessary since

[96] Cf. *Opusc.* VIII, *Expositio super salutationem angelicam.*

[97] Cf. *Opusc.* III, *Expositio super symbolo Apostolorum.*

[98] Cf. Breviloquium, VII, c. 5 (*Opera Omnia*, VII, 337); also *Speculum beatae Mariae Virginis* (*op. cit.*, XIV, 271).

[99] Cf. *De Laudibus Mariae*, IV, 4 (*Opera Omnia*, XXXVI, 179).

[100] Cf. *De Honorificentia Mariae* (*op. cit.*, p. 189); also *Quaestiones super evangelium*, CXXXII (*op. cit.*, xxxvii, 184, 187).

[101] Cf. *De eruditione theologiae*, l. III (*MPL*, CLXXVII, 808).

[102] Cf. *Serm. 35 in Cant.*, n. 5 (*MPL*, CLXXXIII, 416).

[103] Cf. *Serm. 40 de assumptione* (*MPL*, CXLIV, 717).

[104] Cf. *Oratio 60 ad Virginem Mariam* (*MPL*, CLVIII, 966).

the course of the theological stream has been so clearly charted by the witnesses already adduced.

The Witness of the Fathers. Under this heading will be given only a bare recital of names since their actual doctrine will be treated in a succeeding article. Once again it must be kept in mind here that the only concern of this section is the witness of the Fathers to the Assumption. Explicit testimony is first found in the West in the work of Gregory of Tours (†593).[105] To this may be added the teaching of the eastern writers Modestus of Jerusalem (†614),[106] Andrew of Crete (†720),[107] Germanus of Constantinople (†733),[108] and Theodore the Studite (†826).[109] Earlier testimony is not explicit, but read in the light of the later teaching and practice it does give some indications of the presence of this doctrine in writers of the stature of Ephraem, Augustine, and Gregory of Nyssa. From this bare statement of the patristic witness this much may be concluded: the testimony is not extensive and is relatively late but it is present. However, its full weight is only apparent when it is taken as an integral part of that whole which this article has treated. For the patristic witness must be taken as but one part of the whole magisterium, or better, as but one manifestation of the magisterium, and its decisive character and weight arise only from its integral conjunction with that magisterium.

To sum up this whole treatment it must be realized that the effect of this investigation is cumulative. The doctrine does not draw its full certainty from any one thing alone. Each element explored has its contribution to make to the whole. And it is because of this cumulative weight that a Catholic would be most rash to deny the Assumption of our Lady and perfectly safe in holding that it was definable. In like manner a theologian has ample surety for maintaining that this doctrine is the true term of a doctrinal development.

I feel, however, that I cannot close without adding a personal note to this whole question of the magisterium. Searching out the

[105] Cf. *De gloria martyrum*, I, 4, 9 (*MPL*, LXXI, 708, 713).

[106] Cf. *In dormitionem* (*MPG*, LXXXVI, 3292).

[107] Cf. *In dormitionem* (*MPG*, XCVII, 1053, 1081).

[108] Cf. *Hom. I in dormitionem sanctam* (*MPG*, XCVIII, 345).

[109] Cf. *Laudatio in dormitionem* (*MPG*, XCIX, 719 ff).

historical course of this doctrine one finds the magisterium as rich and many-faceted as the divine truth which it proclaims. Too often we think of the magisterium as an abstract rule or measuring stick and its end product a question of mathematical calculation. But such a thought fails to appreciate the fundamental reality of a teaching Church. The Catholic Church is not only a divinely protected but a living teacher. It is a supernatural community of Christians with Christ and its growth and manifestation have their source in that divine charity which vivifies and unifies it. And trying and even tedious as an investigation of this kind can be, I should think that no one could do it conscientiously without being made vividly aware of that unfailing stream of eternal Life that fecundates all the teaching activity of the Church which, in the words of St. Gregory VII, is the Bride of God, our Mother and Mistress.

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MISSION INTENTION

"The Growth of the Church in Annam" is the Mission Intention for the month of May, 1947.

PERSONAL SANCTIFICATION IN THE PRIESTHOOD

It would be a grave error fraught with many dangers should the priest, carried away by false zeal, neglect his own sanctification, and become over-immersed in the external works, however holy, of the priestly ministry. Thereby he would run a double risk. In the first place he endangers his own eternal salvation, as the great Apostle of the Gentiles feared for himself: "But I chastise my body, and bring it into subjection: let perhaps, when I have preached to others, I myself should become a castaway." In the second place he might lose, if not divine grace, certainly that unction of the Holy Ghost which gives such a marvelous force and efficacy to the external apostolate.

—Pope Pius XI, in the encyclical *Ad Catholici sacerdotii,* Dec. 20, 1935.

LET THE PARISH DO IT

Since returning from duty with the Army, I have studied to the best of my ability the attitude and actions of the Roman Catholic clergy and leading members of the laity on social and economic problems.

The attitude, based as it is upon Papal principles, is, of course, so sound that I refrain from attempting to develop it and merely cite the approaches laid down for modern times by Leo XIII in *Rerum novarum*, Pius X in *Singulari quadam*, Benedict XV in his letter to the Bishop of Bergamo, Pius XI in *Quadragesimo anno*, and our present Pope, Pius XII, in various allocutions.

On the second point, however, the implementation of these magnificent writings, disappointment creeps in. I do not believe that the average parish is doing its full part in driving home, graphically, the fact that the Church not only has the answers to the problems but also the means and the willingness to effectuate the solution.

Lest this seem hypercritical, I hasten to admit that parish priests, throughout the country, are devoting themselves wholeheartedly to the welfare of the working man. This criticism, which is offered purely in a constructive sense, is directed at an apparent lack of action by parishes in their group status.

Leo XIII, in his powerful conclusion to *Rerum novarum*, made two telling points on the question of Church action on social problems. First, to those responsible for the public welfare, he indicated that Church assistance on improving the lot of the average man will never be wanting; that in proportion to the liberty of action allowed it, the Church will intervene with great effect. His words become pointless (in fact, we are not living up to his policy), unless we impress public officials with the fact that we are willing to organize to assist them in the handling of their affairs. On the second point, he urged all ministers of religion to throw into the conflict (against the forces perpetuating corrupt social conditions) all the energy of their minds and all the strength of their endurance, and exhorted them to urge ceaselessly upon all men of every class the gospel doctrines of Christian life.

These admonitions recall to me the deep, dark days of the depression, when the various federal, state and municipal agencies

for the relief of the aged and destitute were commencing operations. Many a case was adjusted by either the parish priest or the local St. Vincent de Paul Society. But it was the Communistic elements who actively organized for the widespread assistance of the jobless and aged. It was they who picketed the Relief Offices in New York City, insisting on more prompt and vigorous action, and it was they who claimed credit (in a few cases, legitimately) for many administrative reforms.

This memory became vivid when I passed a left-wing political club on the way to work recently. Noticing a large group of young people congregated there, and inquiring the reason, I discovered that the club was headquarters for the striking employees of a local concern. To myself, I thought that the old days were back; that a left-wing political organization was infiltrating into an economic matter and the parish house was not even considered as a place to which these workers might go for advice and (if the case proved worthy) for assistance. The rectory was not the focal point for neighbors who needed help.

It occurred to me that this illustrated a deficiency on the part of a parish; a deficiency not only of the clergy but of the laity as well, who could be of inestimable assistance in a situation of this sort; a deficiency on the part of the Catholic lawyer, doctor, accountant, engineer, business man and labor leader, who could possibly, singly or as a group, have solved this crisis without a strike at all. That they have an equal responsibility is well illustrated by Pius XI when he says in *Quadragesimo anno:*

> Let, then, all men of good will stand united. Let all those, who, under the pastors of the Church, wish to fight this good and peaceful fight of Christ, as far as talents, powers and station allow, strive to play their part in the Christian renewal of human society, which Leo XIII inaugurated in his encyclical *Rerum novarum.*

Here, there may be objection that social and economic problems have become so vast and complicated that they are beyond the possibility of handling by small groups in the community. At a recent radio round-table discussion, U. S. Senator Morse of Oregon, Governor Arnall of Georgia, and Dr. Robert Hutchins of Chicago University, touching on this very point, reached the conclusion that Washington is populated by only ordinary men, that there are no supermen there, that many a social or economic

conflict could have been solved by State, municipal and lesser agencies, long before it reached the scale necessitating national action. The discussion illustrated a definite trend of thought among our advanced thinkers: that we must put a stop to the process of appealing immediately to the President of the United States for the solution to a problem; that if that process is continued much longer, the idea will become fixed in the national psychology and the functions of our state and municipal governments will become purely ministerial.

Fr. Edward A. Conway, S.J., of the N.C.W.C., discussed the question of community action at The Second Annual Institute of Community Leadership. He stated that on the question of atomic energy there has been a complete collapse of community effort toward an understanding of the problem; despite President Truman's urgings that the public acquaint itself with the problem, community thinking is sadly deficient and muddled. As a result, he concluded that the recommendations of the United States to the United Nations Atomic Commission "were like Greek to the American people." He went on to say that scientists are despondent over the phlegmatic response of the American public to their studies. Other speakers at the same Conference deplored the lack of understanding within communities of problems which, although vast in scope, are capable of solution only if there is an intelligent understanding of them in the base of the body politic.

Dr. Harry S. Dodds, President of Princeton University, in a speech made recently to the National Alumni Association, discussed the growing inability of the individual citizen to control the actions of his Government. He said:

> So rapid and dramatic has been the expansion of government's functions that few have stopped to consider the question whether Big Government is not altering the old relationship between the citizen and his government. Has the ordinary citizen as clear a comprehension of political issues today as he used to have? Who really is in the driver's seat, the voter or the official? Unless the citizen's understanding of political issues keeps pace with their growing complexity, is he not destined to lose control over his officials? And if he loses control over his officials what happens to democracy? These are fundamental questions.

On an entirely different topic, namely, community problems of

child delinquency, the New York State Department of Social Welfare issued a study "A Child Went Forth," which is an account of the influences, conditions, and factors behind the commitments of 150 children to State Training Schools. In this study, it was stated that the first line of defense against juvenile delinquency is the home. The second line is the community in which these children grew up, and the fundamental social instruments of the community are the church and school. Although case records reveal the concern of a few members of the clergy with the needs of some of the families involved and, although the Archdiocese of New York was singled out for special praise in its formation of youth organizations, in its summary of findings the Report concluded that:

> As a guiding force, the church seems scarcely to have had any influence in their lives or in those of their parents. With a few exceptions, the church showed little interest in seeking out these families who were not acceptable companions for the more respected members of the community.

Alexis De Tocqueville in his *Democracy in America*, published as far back as 1831, discussed the decentralization of administration of government in this country and said that it came to him as a refreshing breeze after the close supervision of citizens in the European countries of his day. By decentralization, he was not referring to what was understood then, and now, as "states rights," but was thinking more of administration than of government. Concisely, he said: "A centralized administration is fit only to enervate the nations in which it exists by incessantly diminishing their local spirit . . . It may insure a victory in the hour of strife, but it gradually relaxes the sinews of strength."

Up to this point, the statements made and conclusions reached have been general. Perhaps the reader has agreed, perhaps not; but in any event, if this article continues with sweeping points, it will degenerate into a soliloquy with which no one will greatly argue, and about which no one will do anything. To avoid that fate, I now offer a specific recommendation for action by parishes in the United States.

If, in the strike mentioned above, there had been a parish council to which management or labor could have gone, where they would have been assured of a fair, intelligent, and complete

hearing by a group of representative neighbors of the Catholic faith, a strike might have been avoided; if not avoided, a fair adjudication would certainly have been received with respect. It is not asserted that all problems would be solved; but at least an important point would be made, to wit, an approach to the Church by a religiously composite group for advice, with a sympathetic reception assured and certainty of a fair, intelligent opinion on their problem. The resultant impression on a Catholic or non-Catholic member of such a group is incalculable. The impression of the parish as a vital, working organization, eager to assist, is something left for the reader to judge.

There is nothing revolutionary or even novel about this idea. In many laboring areas, it, or some other phase of it, is already in operation. In many laboring areas, the clergy have actively participated in the cause of the workers. The recent Meat-packers and Steel strikes are cited as examples. There you could find a practical application of the words of Benedict XV, contained in his letter to the Bishop of Bergamo,

> Let no member of the clergy imagine that such activity is outside his priestly ministry on the ground that it lies in the economic sphere. It is precisely in this sphere that the salvation of souls is in peril. Hence it is our desire that priests regard it as one of their obligations to devote themselves as far as possible to social theory and *action,* by study, observation and *work* and that they *support* in all ways *those* who in this sphere exercise a wholesome influence for the good of Catholics (Italics mine).

What is true in this instance is certainly true in other social problems and evils confronting present-day society. Two of the most important problems of today, control of atomic energy and amelioration of the evils surrounding dissolution of family ties, have been mentioned. It is equally important that the proposed parish councils pursue a vigorous course in insuring community understanding of the former and seek out those needing help in the latter.

I am sure that every reader has either listened to, or heard of, the family courts on the radio networks. The advice given to the poor unfortunates who turn to these programs as their only source of help reeks of immorality or amorality, and the resultant gainers are the sponsors alone. Why should not parish councils, acquainted with the problems, trends of thought, and family

background of parishioners confronted with domestic crisis, offer themselves as agencies to which these people can go for sound moral and practical advice, thus damming, to some extent, the flood of divorce actions which are overwhelming our courts of today?

But before proceeding further, I beg the reader's indulgence in granting me a moment to reminisce once more on Army experiences. In training our troops, there were two schools of thought; the first advocated an elaborate, complicated training program, which always looked splendid on presentation to inspecting officers, but which invariably proved deficient because of the inability of the officers conducting the program to accomplish all its provisions; the second school of thought advocated simplicity of program, with concentration upon one topic after another, each one being completely finished before the next one was undertaken. While this gave the impression of inactivity when examined in the sanctity of Division Headquarters, countless officers will testify that it was the only way of insuring that everyone received complete training in each important subject.

Accordingly, it is not even suggested that a parish start with as rounded a group as would necessarily compose a council. Before asking the other professions and trades, let the Catholic lawyer take the initiative, let him take the steps laid down in the directive of Pius XI on Catholic Action, let him break the ground for an organization which might well become national in scope, channeled through small, local groups. Let him inaugurate an organization modelled on the armed forces Legal Assistance Plan. While the veteran will quickly recognize this reference, for the sake of those to whom it is not familiar, I will explain briefly its *modus operandi.*

Under the guidance of the Judge Advocate General (Army and Navy) an officer with legal training is appointed for each echelon in the armed forces. He is given a list of various state and federal War Work Committees to whom he can apply for advice and necessary assistance. A soldier or sailor with a legal problem confers with his legal assistance officer, who, if possible, settles the matter immediately. If it is something beyond his powers, he communicates with the appropriate War Work Committee and requests assistance. The Committee assigns one of a panel of volunteer lawyers to the problem, who communicates with the

soldier or sailor. Proceedings continue with that lawyer individually. If the case is a matter in which the member of the armed forces stands to gain nothing, or if it is one involving a possible cost to him, it is handled without fee. If it is a matter in which the soldier or sailor will recover money or something of a similar nature, a fair fee is charged, which is a matter of settlement between the soldier and the civilian lawyer.

With modifications, this could be easily worked into the Catholic administrative set-up in this country. Substitute the National Catholic Welfare Conference for the Judge Advocate General, the dioceses for the supervising agencies, which, in the Army, are the Divisions, and put the parishes on the regimental levels. The net results would be a nationwide organization for legal assistance to our people, based upon parishes.

It would seem equitable to stop and consider what the average pastor would be required to do to institute an organization of this type.

His first action would necessarily call for a conference with the lawyer who normally handles parish legal affairs. If this lawyer were conversant with recent developments in the social aspect of legal practice, he would be able to cite some developments along this line of thought. He could point out the fact that the American Bar Association has approved the formation of panels of lawyers designed to assist the needy and those who can afford only a modest fee. He could point to the Legal Aid Societies, already in operation in most of the large cities, and which are overwhelmed with requests for legal assistance. He could point to the offshoots of these societies which have developed in New York, Chicago, Cincinnati, St. Louis, Los Angeles and Philadelphia.

In New York City, the Legal Aid Society has been besieged with requests for legal assistance from individuals who do not know a lawyer, desire the legal assistance, and are able to pay only a modest fee. The Legal Aid Society, unable to assist because of its requirement that the applicant must be unable to pay any fee, suggested the formation of an organization to handle this situation. As a result, the Lawyers Referral Service was formed. This organization receives applications for assistance and refers them to specialists in the particular field, who have agreed to consult with such clients for five dollars for a one-half hour consultation.

To the reader who might conclude that these two types of organizations completely answer the problem, I can only cite the words of the Director of the New York Legal Aid Society. He assured me that despite the annual load of 35,000 cases which that society handles, he felt, after explanation of the idea presented in this article, that it would meet a crying need in that city. The need arises from the inability of a great many people to leave their neighborhood to journey to a central office such as his.

He said that he could see no harm in the idea but only good; that if in the complexity of modern affairs, the habit of turning to a lawyer in a parish was implanted in the mind of the average parishioner who could not afford either the money or the time to consult a busy practitioner, a great social accomplishment would have been achieved. He said that the average needy person has a fear of approaching a lawyer—a fear based upon ignorance of the lawyer's obligation to society; that the Church should encourage its parishioners to turn to the lawyer just as it should encourage the lawyer to offer assistance to his neighbor.

A practical method of handling the problem would call for the pastor to form a panel of lawyers of the parish, each a specialist in one of the major divisions of the law, with one to act as the clearing agent. The clearing agent could quickly determine to which of his confreres any particular problem should be assigned. That lawyer could just as quickly assay both the nature and practicable solution to the problem without the necessity of extensive research into the law on an unfamiliar subject. Of necessity, problems would differ in diverse parishes and it is impossible for the writer to offer an ideal solution for every case. That is the function of the pastor and the parish volunteer legal panel.

Even in as small a start as this, there are manifold problems. Assuming approval of the idea in general, it would be necessary to secure the whole-hearted co-operation and enthusiastic support of all pastors. Based on the same assumption, it would be necessary to organize the panels of volunteer lawyers for each parish, who would have to be carefully selected and responsible members of the Bar. They would have to be impressed with the fact that they, to some degree, represent the Church and are responsible for correct procedure to obviate any possible criticism of the sponsoring organization.

The main benefit derived from the formation of such an organization is the fact that it will encourage the parishioner to come to his rectory for help in non-spiritual as well as spiritual matters, even though, for the present, it concerns only legal problems; in other words, it will implant a habit of turning to the rectory in a moment of need. Secondarily, it will encourage the timid to secure legal assistance without fee, if no fee is justified. It will encourage them to seek competent advice instead of proceeding through the advice of well-intentioned (and in some cases not well-intentioned) but meagerly informed neighbors. The system would not be exclusively for Catholics; people of other faiths would be welcome at parish houses and thus be impressed with the fact that the rectory is a place where all people go when they are in need of help.

This could be the prelude for the Parish Council mentioned above. The experience gained by the pastor in supervising an organization of this sort, in becoming the head of one of a united band of groups, in sharing his experiences with supervisors on higher and lateral levels, in co-ordinating the activities of the interested professional men in his parish, in observing their team work, will stand him in good stead in preparation for the handling of a representative parish group as a Council. The experience gained by the volunteer lawyer-member will benefit him both legally and spiritually.

With a successful formation of an organization of this type, followed logically by the Parish Council, it might become the opening step to a system of Parish Co-operatives, Labor Societies, Credit Unions, *et al.* In fine, it could be the beginning of a new movement to make the rectory the pulsating heart of an active "parish militant."

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CHRIST'S PRAYER FOR PETER

Sooner shall the orb of day be extinguished than the prayer of Christ for Peter shall fail.

—Archbishop Kenrick in *The Primacy of the Apostolic See* (New York, 1848), p. 514.

ST. ANTHONY ON THE ASSUMPTION

In virtue of the Apostolic Letter *Exulta Lusitania felix; O felix Padua gaude* (Jan. 16, 1946), Pope Pius XII, now gloriously reigning, solemnly declared St. Anthony of Padua (1196-1231) a Doctor of the Church Universal. St. Anthony, the new *Doctor Evangelicus*, thus becomes the twenty-ninth saint to be elevated to this high rank and the second of the Franciscan Order to enjoy this privilege, the other being the "Seraphic Doctor," St. Bonaventure of Bagnoreggio (1221-74).

Whereas all knew, I dare say, that St. Anthony was a most popular saint, a wonderful preacher, and a great thaumaturgist, few looked upon him as a deep theologian or a learned teacher. True, he wrote no *Summa* as did St. Thomas of Aquin, nor a Commentary on the *Sentences* of Peter of Lombardy, as did most medieval scholastics; but he did bequeath to posterity his sermons,[1] a veritable font of theology and doctrine, so much so that the Holy Father in the above-quoted Apostolic Letter could truly say:

> His contemporaries and more modern authorities are of one accord as to the great light Anthony shed with his doctrine, which was indeed a veritable preaching of the Divine word. They all bestow the most ample praise on his wisdom and extol his eloquence to the skies. Whoever studies the Sermons of the Paduan closely, finds him greatly conversant with the sacred writings, an outstanding theologian in dogmatic research and master in dealing with ascetical and mystical subjects. All this is like a treasury of Divine oratory to supply no little assistance especially to the preachers of the Gospel. It constitutes a kind of well capitalized bank from which particularly our sacred orators can draw plenty of very forceful material to defend the truth, to combat errors, and to reclaim the hearts of those who are lost to the right path. But it is because Anthony so often employs thoughts and examples taken from the Gospel, that he would seem to deserve with full right the title of *Doctor of the Gospel*. For doctors, theologians and preachers of the Divine word, not a few, have always drawn and do today draw heavily on him as a doctor of Holy Church.[2]

[1] The best edition of St. Anthony's sermons is by the secular priest and canon of the Cathedral of Padua, Dr. Antonio Maria Locatelli, begun in 1895 and after his death (1902) continued by his friends, entitled: *Sancti Antonii Patavini thaumaturgi incliti sermones dominicales et in solemnitatibus* (Padua: Typis atque Expensis Societatis S. Antonii Patavini, 1895-1913).

[2] Taken from the English translation as given in *The Franciscan Herald and Forum*. XXV, 6 (June, 1946), 164.

In this article I hope to give a brief analysis of the beatiful sermon of the new Doctor of the Church on the Assumption of the Blessed Virgin Mary. Rev. Diomede Scaramuzzi, O.F.M., recently compiled from the sermons of St. Anthony a whole *Summa theologica*, as it were, of the saint, in a work entitled *La Figura Intellettuale di San Antonio di Padova alla luce della critica*,[3] which was considered of such importance that the Sacred Congregation of Rites included it in the official *Acta* of its Process for the *Informatio*, *Inquisitio*, and *Confirmatio* of the title of Doctor of the Church to be bestowed on our saint.[4] It is on Scaramuzzi's learned studies and on the publication of St. Anthony's authentic sermons by that ardent lover of *Antoniana*, Very Rev. Antonio M. Locatelli,[5] Canon of the Cathedral of Padua (†1902), that I base the following exposé of the sermon.

During the early Middle Ages the doctrine of the Assumption of our Lady was not admitted by all, nor was the feast-day universally celebrated throughout the Church;[6] the important Usuard Martyrology, written by a Benedectine monk of the Abbey of St. Germain-des-Prés (Paris) shortly before 875, actually denied it.[7] However, since the days of St. John Damascene (675-749) both the belief in the doctrine and the celebration of

[3] Rome: Collegio S. Antonio, 1934.

[4] Sacra Rituum Congregatione Emo. et Revmo. Raphaele Carolo Rossi Relatore: *Urbis et orbis declarationis seu confirmationis cultus ac tituli doctoris . . . in honorem S. Antonii Patavini ex Ordine Fr. Minorum* (Romae: Ex Typog. Augustiniana, 1936).

[5] The high regard this eminent lover of Antoniana, Canon Locatelli, had for the doctrines of St. Anthony is evident from his letter addressed in 1888 to Pope Leo XIII requesting that St. Anthony be made a Doctor of the Church. It is printed in the above-named official *Acta* of the Sacred Congregation of Rites (cf. note 4).

[6] Cf. Schwane, *Histoire des dogmes* (Paris, 1904), III, 187, 188, 312; Martin Jugie, "L'Assomption de la Sainte Vièrge et l'Ecriture Sainte" in *L'Année théologique*, III (1942), 1-46; Franciscus Salesius Mueller, S.J., *Origo divino-apostolica doctrinae evectionis Beatissimae Virginis ad gloriam coelestem quoad corpus* (Innsbruck: Rauch, 1930).

[7] Cf. Diomede Scaramuzzi, O.F.M., *La Figura Intellettuale di San Antonio di Padova. I suoi scritti. La sua dottrina* (Rome: Collegio San Antonio, 1934), 203, note. This is practically the same work referred to above (cf. note 3); it is however to be differentiated from it.

the feast, although on various days,[8] had so increased from century to century that by the beginning of the thirteenth century it was the common doctrine of theologians. There is a legend current that St. Anthony also for a time doubted the Assumption of the Blessed Virgin Mary, but, as the result of a vision, he became one of its most ardent defenders.[9] The Franciscan school in general, including St. Bonaventure,[10] defended the doctrine. So did the Thomistic school, following its illustrious founder.[11] Thus on this phase, at least, of Mary's prerogatives, there was unanimity of opinion.

St. Anthony's sermon on the Assumption (*In Assumptione S. Mariae Virginis*) is published by Locatelli[12] and by P. Antonio M. Josa, O.F.M.Conv., the former Prefect of the *Bibliotheca Antoniana* at Padua, in his *Sermones S. Antonii de Padua in laudem gloriosae Virginis Mariae.*[13] Since there are no direct and formal texts in the Sacred Scriptures on the corporeal assumption of the B.V.M., St. Anthony bases his defense of the doctrine on accommodated texts which he confirms by arguments of convenience (*argumenta convenientiae*) and by theological inductions and deductions (*rationes theologicae*).

Commenting on the text of Isaias (60:13), "Et locum pedum tuorum glorificabo," the Evangelical Doctor says: "The place of the feet of our Lord was the Blessed Virgin Mary from whom He assumed humanity and whom today He glorified because He exalted her above the choirs of angels." In this text, continues our saint, "it evidently follows that the Blessed Virgin Mary, who was the resting place of the feet of the Lord, was glorified because she was taken up into Heaven."

Explaining the text in Psalm 131:8, "Exsurge, Domine, in requiem tuam, tu et arca sanctificationis tuae," St. Anthony says

[8] *Lexikon für Theologie und Kirche*, V, 52-53.

[9] *The Companion of St. Anthony and St. Francis* (Chicago, Ill.), XXI, 8 (Aug. 1946), 16.

[10] Cf. Bonaventura Gargiulo, O.F.M. Cap., (Bishop of S. Severo), *La corporea Assunzione di Maria al cielo. Tradizione e scuola francescana* (Naples, 1902).

[11] *Sum. theol.* III, q. 27, a. 1; q. 83, a. 5, ad 8.

[12] *Op. cit.*, pp. 722-33.

[13] Padua: Typis Seminarii, 1888.

that the first part of this verse refers to Christ's Resurrection and Ascension, the second part to the "ark which thou hast sanctified," *i.e.* to Christ's Blessed Mother, whom He took up to Himself into Heaven: "cum in hac die (Aug. 15) ad aeternum thalamum est assumpta."

Continuing with the thought of the "ark which the Lord had sanctified" (*Ps.* 131:8), St. Anthony compares Mary with the ark of Noah which after the flood finally rested on Mt. Ararat in the mountains of Armenia, *i.e.* "super choros angelorum," because in her Assumption she "was placed above the choirs of angels."

He also compares Mary to Esther and says that, like her type in the Old Testament, Mary too was led to the room of a king: "ducta est ad cubiculum Regis" (*Esther*, 2:15-17), "to the ethereal dwelling, in which the King of Kings, the joy of the angels, sits upon a starry throne, Jesus Christ, who loved the same glorious Virgin above all other women, because of her He assumed flesh."[14] How like the antiphons of the Roman Breviary for the Feast of the Assumption!

Then, in admiration of the dignity accorded Mary, led to the throne room of the King and exalted above all the choirs of angels, St. Anthony breaks forth into the following exclamation: "O inaestimabilis Mariae dignitas! O inenarrabilis gratiae sublimitas! O investigabilis misericordiae profunditas!" It was on account of Mary's divine maternity that she was taken up into Heaven and crowned: "et ideo hodie coronari meruit." In other words, the *ratio theologica* of Mary's Assumption into Heaven and coronation as Queen of the Angels is her divine maternity. Herein lies real theological progress. As Mary's Immaculate Conception[15] was

[14] St. Bonaventure in his *Speculum B. Mariae Virginis* (cf. *Opera omnia* [Quaracchi, 1882], I, 456 f.), seems to have borrowed this similarity between Esther and the Blessed Virgin Mary from St. Anthony.

[15] Whether St. Anthony actually denied, taught, or only insinuated the Immaculate Conception of Mary is still a disputed question among Franciscan scholars. Scaramuzzi (*op. cit.* p. 18) and in his article "San Antonio di Padova e il dogma dell'Immacolata" in *L'Osservatore Romano*, Dec. 18, 1932; Gaetano Stanno, O.F.M. Conv., in *Miscellanea Franciscana*, XL (1940), 245-60, following Lepître, Pauwels, Facchinetti, Sparacio, and especially Gustavo Cantini, O.F.M. (in *Studi Francescani*, XXVIII (1931) hold that St. Anthony if not *formaliter* at least *implicite* defended the Immaculate Conception; whereas Candido Romieri, O.F.M., in his doctoral dissertation *De Immaculata Con-*

preparatory to her maternity, the greatest of her prerogatives, so was her Assumption into Heaven the crowning glory of both. Because she had been immaculately conceived it behooved Almighty God (*conveniens erat*) to preserve her body from corporeal corruption. On the other hand, because it was from Mary's chaste body that the Son of God assumed flesh and blood, it behooved God to preserve her body as free from material, corporeal corruption as He did the body of His Son through the latter's Resurrection and Ascension.

Commenting on the *Introit* and the Gospel of the day: "Introivit Jesus in quoddam castellum" Anthony says: "The castle into which Jesus entered at the moment of His Incarnation was Mary, His virginal Mother": "Castellum enim est Beata Maria, quae quia totius castitatis claritate nituit, ideo in ipsam Dominus intravit." Then, playing on the Gospel narrative in his own inimitable analogical and symbolical method of Scriptural interpretation, he continues: "Around every castle is a wall and on every wall a tower. The wall which protected Mary was her virginity; the tower defending the castle, her humility." The tower was straight and long ("turris dicta est 'teres,' idest directa et longa"). It was straight because she looked up solely to Him, Who regarded her humility; long, because in the word of humility "Behold the handmaid of the Lord" she became the Queen of Heaven.

Finally, accommodating the gospel text of the Feast of the Assumption referring to Martha and Mary, the sisters of Lazarus, St. Anthony says: "Our Mary, the mother of Christ, was both a Martha and a Mary. She was a Martha because she wrapped up the Child in swaddling clothes, laid Him in a manger, nursed Him from a breast full of heavenly nourishment, fled with Him into Egypt and returned with Him therefrom." But she was also a Mary, because, like the other sister of Lazarus, sitting at the feet of Jesus "she kept all these things in her heart."

En passant, this sermon on the Assumption is an excellent example of the homiletic method used by St. Anthony: the combination of a homily on the gospel, the epistle, the *Introit* of the Mass,

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ceptione B.M.V. apud S. Antonium Patavinum (Rome: Collegio di San Antonio, 1939) denied this. The latter was upheld in his opinion by the Capuchin Amadeus a Zedelgem (cf. *CF*, V, 490, n. 22, and *CF*, XI, 96).

and the history of the Old and New Testaments as expounded by the Fathers in the second nocturn of the divine office. This fourfold application St. Anthony calls the "four wheels of the chariot of Elias" (*quatuor rotae quadrigae Eliae*) which carried the prophet up to Heaven.[16]

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[16] Scaramuzzi, *op. cit.*, p. 38.

THE MISUSE OF SCRIPTURE AT THE HANDS OF HERETICS

When we correctly derive conclusions about the Scriptures from the Scriptures themselves, we base our conclusions scientifically on faith. Though it be true that heretics have the effrontery to use the prophetic Scriptures, yet, in the first place they do not use them all, and in the second place they do not use them in their wholeness, nor as the body and the context of the Prophecy demand. Actually they select ambiguous phrases and turn these to their own opinions, picking out a few scattered utterances without considering what is intended in them, but perverting the bare letter as it stands. For in almost all the passages they employ, you will find how they pay attention to the words alone, while they change their meaning. They do not even understand the words as they are spoken, nor do they use in their natural sense such citations as they adduce. Truth, however, is discovered, not by altering the meaning of words (for in doing this they will overthrow all true teaching), but by considering what is perfectly fitting and appropriate to the Lord and God Omnipotent, and by confirming each thing proved according to the Scriptures from similar passages in the Scriptures themselves. Neither, then, do they desire to turn to the truth, since they are ashamed to abandon the claims of self-love; nor are they able to support their opinion by doing violence to the Scriptures. But having first promulgated false dogmas to men, plainly contradicting almost the entire Scripture and constantly confuted by us who contradict them, even now they partly hold out against admitting the prophetic Scriptures, and partly pretend that we are of a different nature and that we are incapable of understanding what they alone set forth. And sometimes they even deny their own dogmas when these have been refuted, being ashamed to acknowledge openly what they glory in teaching privately. For this may be seen in all the heresies, when you examine the iniquities of their dogmas.

—Clement of Alexandria, in the *Stromata,* VII, 16.

THE FELLOWSHIP OF THE DIOCESAN PRIESTHOOD

Essential for any adequate theological understanding of the secular priesthood is the recognition of the *presbyterium* as a brotherhood that imposes a special obligation of mutual Christian fraternal charity upon its members. Obviously this does not mean in any way that the diocesan *presbyterium* is the only kind of community whose members are bound to love one another with the love of the brotherhood. Such an obligation is in no way distinctive of the diocesan priestly fraternity, because Christ Our Lord has given this command to all His disciples and has made His Church a brotherhood of love. For this reason, within the universal Church itself, and within every legitimate social unit of the Church, Christ's disciples are bound to love each other with the true and sincere affection of charity.

There are, however, special reasons that demand a particularly powerful and intimate fraternal charity on the part of a secular priest for his fellow priests, and particularly for the members of his own *presbyterium*. Every priest, religious or secular, by the very fact of his position and function in the Eucharistic sacrifice, has motives for fraternal charity stronger and more exacting than those which govern the conduct of Catholics not in sacerdotal orders. Every diocesan priest, by reason of his association with his bishop and with the other members of his own *presbyterium* in the Eucharistic leadership of a local Church, is bound to the perfection of mutual charity by ties that affect only his own brotherhood.

In order to realize the special position of mutual fraternal charity in the diocesan priesthood, we must first understand the urgency with which Our Lord laid the command for the love of the brotherhood on all his disciples so as to make it a real bond of unity in His Church. The order to love one another was the "new commandment" He gave to His disciples.

> A new commandment I give unto you: That you love one another, as I have loved you, that you also love one another.
>
> By this shall all men know that you are my disciples, if you have love one for another.[1]

[1] *John* 13:34-35.

Our Lord returned again and again to this basic commandment during the course of His instruction after the Last Supper. "This is my commandment, that you love one another, as I have loved you,"[2] He told the disciples, and "These things I command you, that you love one another."[3] As a matter of fact St. John, the inspired author of the Fourth Gospel, explains Christ's own teaching about spiritual light and darkness in terms of this love of the brotherhood.

> Again a new commandment I write unto you: which thing is true both in him and in you, because the darkness is passed and the true light now shineth.
>
> He that saith he is in the light and hateth his brother is in darkness even until now.
>
> He that loveth his brother abideth in the light: and there is no scandal in him.
>
> But he that hateth his brother is in darkness and walketh in darkness and knoweth not whither he goeth: because the darkness hath blinded his eyes.[4]

This passage from St. John's First Epistle contains an obvious reference to Our Lord's own statement: "I am the light of the world. He that followeth me walketh not in darkness, but shall have the light of life,"[5] and to the warning He gave the multitude that questioned and opposed Him after His triumph of Palm Sunday.

> Jesus therefore said to them: Yet a little while, the light is among you. Walk whilst you have the light, and the darkness overtaketh you not. And he that walketh in darkness knoweth not whither he goeth.[6]

Our Lord taught that the very purpose of His coming into the world was to give men, through faith in Him, that light of life with which the love of the brotherhood is inseparably connected. "I am come," He said, "a light into the world, that whosoever believeth in me may not remain in darkness."[7]

Thus the love of the individual Catholic for the Church and for his brothers in the company of the disciples is something most clearly and forcefully commanded by Our Lord. The charity of the brotherhood, or the true and sincere affection for the Church

[2] *John* 15:12.
[3] *John* 15:17.
[4] *I John* 2:8-11.
[5] *John* 8:12.
[6] *John* 12:35.
[7] *John* 12:46.

as the supernatural house or family of God and for its members, is a matter of the most stringent and fundamental obligation for all Catholics without exception. To classify this love of the brotherhood as something to be achieved only in the higher stages of perfection, or to think of it as merely something counselled by Our Lord is to misconstrue the very purpose and the nature of the Catholic Church. "We know," St. John tells us, "that we have passed from death to life, because we love the brethren. He that loveth not abideth in death."[8]

It is impossible to love God with the love of charity without loving our brethren in the Church.

> If any man say: I love God, and hateth his brother; he is a liar. For he that loveth not his brother whom he seeth, how can he love God whom he seeth not?
>
> And this commandment we have from God, that he who loveth God love also his brother.[9]

As a matter of fact, the great Douai theologian, Francis Sylvius (†1649), spoke of the *amor fraternitatis* apart from which true charity cannot exist as a requisite for membership in the Church of Jesus Christ in this world. Sylvius taught that this "love of brotherhood" could and did exist in persons not in the state of grace even though only those who possessed the *amor fraternitatis* could have the virtue of charity. Thus he held the Catholic truth that men not in the state of grace can be truly members of the one company described by St. Paul as the body of Christ.[10]

Sylvius defended strenuously and, it would seem, successfully his contention that the Second Epistle of St. Peter gave evidence of divinely inspired teaching that there is such a thing as a "love of brotherhood" distinct from the theological virtue of charity. He pointed to the passage in which St. Peter warns his readers to minister "in godliness, love of brotherhood: and in love of brotherhood, charity."[11] The Greek text has φιλαδελφία for *amor fraternitatis* and ἀγάπη for *caritas*.

[8] *I John* 3:14.

[9] *I John* 4:20-21.

[10] Cf. *De praecipuis fidei nostrae orthodoxae controversiis cum nostris haereticis*, Lib. III, art. 2, in the *Opera omnia* (Antwerp, 1698), V, 237.

[11] *II Pet.* 1:7.

In common with many of his contemporary theologians, Sylvius refused to accept the teaching of St. Robert Bellarmine (†1621), that a man could be counted as a member of the true Church by the possession of only the external bond of unity within this society.[12] St. Robert held that a man could and must be reckoned as a Christian, as a member of the one true Church of Jesus Christ in the world, if he had the profession of the true faith, if he was admitted to the communication of the sacraments, and if he held himself subject to his legitimate ecclesiastical pastors, and ultimately, of course, to the Roman Pontiff, even though he did not possess any of the virtues pertinent to the Christian life of grace. Sylvius was one of those who taught that the possession of some virtues was requisite for membership in the Church. He admitted, of course, that a man could be a Christian, a member of Christ's company, without having true charity. He would not admit, however, that anyone "could be constituted as a part or member of the Church" without the *amor fraternitatis* which he described as the virtue "by which a Christian wishes to live and to die in the communion of the Church and has a horror and hatred of attacks against it and divisions within it."[13] It is interesting to note that another of the classical ecclesiologists, William Herincx (†1677), the Franciscan Bishop of Ypres, agreed in great measure with Sylvius about the function of the *amor fraternitatis* in the Church of God.[14]

Sylvius and Herincx cannot, of course, be followed today in their opinion that an inward bond of union is requisite for membership in the Church. The teaching of St. Robert Bellarmine, with which they disagreed, has long been the common doctrine of the schools. The present Holy Father's encyclical, the *Mystici corporis*, gave official standing to this teaching when it enumerated only the external bonds of unity in speaking of requisites for membership in the true Church.[15] Sylvius and Herincx were, however, perfectly correct in counting this *amor fraternitatis* among the real elements of the inward bond of unity within the

[12] Cf. *De ecclesia militante*, cap. 2, in *De controversiis christianae fidei adversus huius temporis haereticos* (Ingolstadt, 1586), I, 1264.

[13] Cf. Sylvius, *loc. cit.*

[14] Cf. *Theologia dogmatica, moralis et scholastica* (Cologne, 1718), I, 71.

[15] Cf. *Acta Apostolicae Sedis*, XXXV (1943), 202.

Church. The love of the brotherhood is actually a force drawing the people of God into that unity that Christ prayed they might retain.

Furthermore Sylvius did an extraordinary service to Catholic theology when he described the *amor fraternitatis* as involving an intention to live and die within the Church and as including a hatred and horror of attacks against the Church as well as of divisions within it. The desire to live within the Church is, in the last analysis, a wish to take part in the corporate and organized work of charity for God in this world. The man who wills to die in the Church intends, objectively at least, to make the purpose of the Church the purpose of his own life. The man who really possesses the love of brotherhood in the Church appreciates this society for what it is, the true family or household of God. His appreciation is sincere and his love is real to the extent that he reacts toward the Church as a good man does towards his own family in this world. He faithfully opposes attacks made against it. He sets out to remedy and if possible to prevent any division within it, in so far as he is able to do so.

Because of the fact that the priests of a diocese actually form a distinct brotherhood under the rule of their bishop, the divinely imposed obligation of mutual Christian fraternal charity applies to them with particular urgency. The teaching on the *ordo caritatis* is an integral part of the Catholic truth about the life of divine grace. According to St. Thomas Aquinas[16] the affection of charity is stronger or more intense in proportion to the closeness of our associations with those whom God commands us to love. His bishop and the fellow members of his own *presbyterium* are joined to any diocesan priest in the most intimate supernatural brotherhood. The individual secular priest is essentially a member of a group, working together under the paternal direction of the diocesan bishop for God's glory, through the corporate exercise of the life of grace in a local Church. To this work each member of the *presbyterium* is privileged and commissioned to devote all his activity. Since the participation of the individual member of the *presbyterium* in this corporate salvific task involves an especially intimate association with the diocesan bishop and with the others of this sacerdotal company, the individual diocesan

[16] Cf. *Sum. theol.*, II-II, q. 26, a. 7.

priest is, by reason of his very position in the Church, obliged to have and to show a particularly powerful and intense charity for his bishop and for his brother priests. It would follow that the individual member of a *presbyterium* can rightly have no association more vital and important than that which binds him to those with whom he is called to perform the sacerdotal ministry in the Church.

Moreover, the very nature of the work that constitutes the central and essential element of the priestly ministry is such as to demand the perfection of fraternal charity from those who take part in it. The Eucharist is, in a special and profound sense, the act of Our Lord's Mystical Body.[17] All that the Catholic Church does and wishes to do is summarized and expressed in the Eucharistic sacrifice. Indeed, the Church militant might well be defined as the society Our Lord has organized around Himself to glorify God in the salvation and sanctification of men through the Eucharistic sacrifice and the sacramental system built around the Eucharist. The Eucharist is at once the sign and the cause of charity. Because the basic function of the bishop and the priestly company over which he presides is that of offering the Mass with and for the people of the Church, the mutual charity of Christian brotherhood must abound within the *presbyterium*. The men whom God has empowered and commanded to offer the Eucharistic sacrifice must have for one another that true charity of which the Eucharist is the sign.

A passage in the famous *Didache* shows how clearly the early Christians understood the incompatibility of mutual animosity among members of a Catholic community with the Eucharistic prayer and sacrifice to which that community was dedicated.

> On the Lord's day of the Lord, gather together, break bread, and celebrate the Eucharist, after confessing your sins, that your sacrifice may be pure. But let no one who has a quarrel with his comrade join with you until they are reconciled, in order that your sacrifice may not be defiled.[18]

This teaching is only an expression of that which Our Lord

[17] Cf. the article "The Act of the Mystical Body," *The American Ecclesiastical Review*, C, 5 (May, 1939), 397 ff., and the discussion about this article, *AER*, CII, 4 (April, 1940), 306 ff.

[18] *Didache*, XIV, 1, 2.

gave to His disciples. According to His doctrine, the members of the Catholic Church are people absolutely forbidden to be hostile and antagonistic to one another because they are the men and women of his own household, His brothers and sisters, privileged by God to take part in His sacrifice of love.

Our Lord Himself had commanded that this Eucharistic charity among His disciples should be really effective. Uncharitable discord among those who were to take part in His sacrifice was so abominable in His eyes, and so manifestly counter to the meaning of the sacrifice itself that He ordered those who had sinned against their fellow members of the "royal priesthood" to go and be reconciled with those they had wronged before offering their gifts at the altar.

If therefore thou offer thy gift at the altar, and there thou remember that thy brother hath any thing against thee;

Leave there thy offering before the altar and go first to be reconciled to thy brother; and then coming thou shalt offer thy gift.[19]

The disciple who had been injured or treated unjustly by another was, according to Our Lord's specific injunction, obliged to forgive his enemy always.

Then came Peter unto him and said: Lord, how often shall my brother offend against me, and I forgive him? Till seven times?

Jesus saith to him: I say not to thee till seven times, but till seventy times seven times.[20]

Furthermore, according to Our Lord's express teaching, the offended party is bound to take the initiative, if necessary, to bring about the renewal of charity within the society of the disciples. The passage in which Our Lord brought out this command is best known in theology because of the fact that it places the word ἐκκλησία on the lips of Christ and because it indicates the visibility, the organized social structure on earth of the company within which He has promised to dwell forever. Nevertheless, the truth upon which Our Lord insisted immediately and primarily in this passage is that of the absolute necessity for fraternal charity in His company.

[19] *Matt.* 5:23-24.

[20] *Matt.* 18:21-22.

But if thy brother shall offend against thee, go and rebuke him between thee and him alone. If he shall hear thee, thou shalt gain thy brother.

And if he will not hear thee: take with thee one or two more, that in the mouth of two or three witnesses every word may stand.

And if he will not hear them: tell the church. And if he will not hear the church: let him be to thee as the heathen and the publican.[21]

St. Luke's Gospel contains a passage which insists powerfully upon the obligation of the disciple in the line of fraternal charity.

Take heed to yourselves. If thy brother sin against thee, reprove him: and if he do penance, forgive him.

And if he sin against thee seven times in a day, and seven times in a day be converted unto thee, saying: I repent: forgive him.[22]

It is perfectly true that Our Lord has commanded all of His disciples, all the members of His Church, to love each other with the love of the brotherhood, to let nothing stand in the way of this fraternal affection, and utterly to wipe out any antipathy or animosity inconsistent with the charity of the kingdom. Yet it remains true also that the diocesan priest has certain special incentives and motives that impel him more urgently than others in the house of God to the practice of brotherly charity in his own sacerdotal company. As a priest he is empowered to offer the Eucharistic sacrifice, the ultimate social expression of divine charity in the Church of Christ. As a diocesan priest, a member of his bishop's *presbyterium*, he works as his bishop's instrument in encouraging and in fostering the life of Eucharistic charity in the local Church.

Thus the diocesan *presbyterium* is a brotherhood so constituted that any lack of sincere mutual charity among its members involves a direct and immediate affront to the spirit of the Eucharistic *agape*. The function of aiding the bishop in the cause of Christ within the local Church is a corporate task, something which cannot be done successfully except by a group of priests loving their work and loving each other for the sake of God. The work of the bishop is to bring about and to increase the union of charity within his own diocese. That work demands the cooperation of a *presbyterium* which is itself united in the charity of brotherhood. Indeed, by reason of their exalted position in the

[21] *Matt.* 18:15-17. [22] *Luke* 17:3-4.

Eucharistic family which is the local Church, any diocesan priests who withhold the charity of brotherhood from one another will almost inevitably be guilty of scandal.

We would totally misconstrue the nature of Christ's true Church were we to forget that the primary and fundamental social obligation incumbent upon the members of this organization is that of loving one another. The Church is truly the house or the family of God. The disciples of Christ, those who belong to this household, are the men and women whom Our Lord has designated as His brothers and His sisters. The profound and guiding influence in the life of this society is the love of God, a love which carries with it and which is impossible without a sincere mutual fraternal affection among the members of the brotherhood.

Although the love of the brotherhood extends itself to all the members of the Christian fraternity, it manifests itself primarily within the individual community, the local Church. It was not without reason that St. Ignatius spoke of the Christians subject to one bishop as "the *agape* of the brethren in Troas," and described "the *agape* of the Smyrneans and the Ephesians." If there be a lack of sincere mutual love within the membership of an individual Christian community or diocese, then its very Christian life is diminished. There can be no real love of God apart from the *amor fraternitatis*, and there is no such thing as a love of the brotherhood within the Church universal which does not manifest itself in the unity of charitable affection within the local Church.

It is the office of the diocesan bishop to nurture and to increase this solidarity of Eucharistic charity within his Church. In this salvific work the *presbyterium*, the brotherhood of his own priests, acts as his instrument. This task of fostering the *amor fraternitatis* within the Church of God has taken on a new difficulty in our own day when, for one reason or another, the love of charity which we as Catholics owe to all men is considered by some to be, for all practical purposes at least, incompatible with the special affection of charity God has commanded us to have for one another within His *ecclesia*. Certainly that work will never be accomplished fully and properly in the individual Church unless the members of the diocesan *presbyterium* co-operate with the

Eucharistic grace that is given to them and take the lead in their own community, loving one another without exception in the love of the brotherhood, for the *presbyterium* is essentially a fellowship in the Eucharistic charity of Christ.

It is absolutely essential that the diocesan priest realize that the love of the brotherhood which, according to the divine command, must exist within the *presbyterium*, is necessarily something practical and visible and supernatural. No secular priest has the *amor fraternitatis* that God demands of him unless he brings himself to love and to enjoy the company of his fellow priests. From the friendly gatherings of his own priestly brotherhood the individual member of the diocesan *presbyterium* can and should derive consolation, edification, and strength for the work of the ministry. It is important to note that the priestly and supernatural advantages which can be attained in and through association with the other members of a priest's own *presbyterium* can be gained in no other way. The priest whose affection for his fellows is other than practical thus deprives himself of helps and comforts that he needs in his service of the people of God.

In his association with his fellow priests, the diocesan priest who has the true and supernatural love of the brotherhood which Christ demands must inevitably seek to aid them in their salvific work within the true Church of God. Such a manifestation of the *amor fraternitatis* involves a special and continuing effort to encourage and to stimulate the proper performance of sacerdotal work and the increment of personal perfection within the priestly brotherhood. Those who have lived any length of time in the diocesan priesthood know well the immense good done by those men who have manifested their effective supernatural love for their brother priests through a real, though generally quite unobtrusive, sanctification of sacerdotal gatherings. Through the action of such priests, the *amor fraternitatis* within the priestly brotherhood manifests itself to all men in a true and supernatural *esprit de corps*, whereby diocesan priests give visible expression to their realization that the work of the *presbyterium* is the work of Christ.

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Answers to Questions

RELATIVE POSITIONS OF BODIES OF HUSBAND AND WIFE IN THE TOMB

Question: Is there any law of the Church which prescribes the relative positions of the bodies of husband and wife in the tomb? Should the wife be placed on the right or on the left of her husband?

Answer: So far as we know, there is no definite legislation of Canon Law determining the relative positions of husband and wife in the tomb. The correct thing would seem to be to place the body of the husband on the right hand of that of the wife. This is his position when the *sponsi* stand before the altar for the marriage ceremony and in medieval tombs which are surmounted by recumbent figures of husband and wife, the former has the position of honor, on the right side of his wife.

SOME QUESTIONS OF OCCURRENCE AND CONCURRENCE

Question 1: In churches dedicated to St. Agnes, will the Mass and Office of the Octave Day, Jan. 28, be of St. Agnes *secundo?*

Question 2: In churches dedicated to St. Paul, the patronal feast being that of June 30, should we say, as Second Vespers, those of St. Paul, with a commemoration of the following day's feast, that of the Precious Blood? And, on June 29, should we say the First Vespers of St. Paul?

Answer 1: The feast of the Titular of a church ranks as a *duplex I classis cum octava communi.* The octave day itself is rated as *duplex majus.* In the regular calendar, St. Agnes *secundo* is *simplex* in rank. Where it is the octave day of the feast of the Titular, it is celebrated *ritu duplici* (cf. *Octavarium Romanum*) and takes precedence over the *duplex* feast of St. Peter Nolascus, now fixed to Jan. 28.

Answer 2: In accordance with the rules of concurrence, *in casu,* the Vespers on June 29 will be the First Vespers of St. Paul and on June 30 the Second Vespers of St. Paul with commemoration of the feast of the Precious Blood. This is also the provision of the Breviary for the dates in question.

CATHOLIC UNDERTAKERS FOR CATHOLIC FUNERALS

Question: Is there anything in Canon Law which requires that Catholics employ Catholic undertakers for their dead? We know a case in which the priest refused to go to the house to recite the Rosary and to go to the cemetery for the burial services because a Catholic undertaker was not in charge of the funeral.

Answer: There is no canon in the *Codex juris* which forbids the employment of any but Catholics to direct the funeral services of deceased Catholics. While there is no legislation to this effect, it certainly seems more becoming that a Catholic undertaker be in charge of the obsequies of Catholics since the disposition of the body of one of the faithful is so intimately associated with the ritual of the Church. On the other hand, there may be cases where there are good reasons to employ a non-Catholic to direct the funeral.

USING AN ACTUAL WHITE GARMENT AT BAPTISM

Question: Recently I have seen pictures of altar societies and read articles concerning their work in making small ornate garments of white material to be placed on those baptized. Now, the rubric of the Ritual calls for a garment for an adult and a veil for an infant. Is it allowed to use white garments for infants?

Answer: The rubric of the Ritual in the ceremony for the baptism of infants (Tit. II, Cap. 2, 24), prescribes that after the anointing of the head with chrism, which immediately follows the actual pouring of the water, the priest places on the head of the newly-baptized child a white cloth, which takes the place of a white garment (*loco vestis albae*). In the preliminary instructions in the Ritual (Tit. II, Cap. 1, 64), the direction is given that there be prepared for the ceremony a white garment like a little cape (*alba vestis in modum pallioli*) or else (*seu*) a white cloth to be placed on the head of the subject. In the ceremony for the baptism of adults (Tit. II, Cap. 4, 42), the rubric directs that the priest place on the head of the candidate a *chrismale*, i.e. (*seu*) a white linen cloth and also give him a white garment, which the baptized person puts on as his external article of dress after he has changed his clothes in conformity with the rubric of the following paragraph (*loc. cit.*, 43).

Our conclusion from these directions is that it is quite proper to use an actual white garment in the baptismal ceremony, even in the case of infants. The Ritual itself indicates that the white cloth, placed on the head, is to be regarded as a substitute for the white robe. So, when it is practical to use the latter, it seems quite conformable to the rubrics to do so. The latter are more accurately observed in this matter when the white garment takes the form of a cape or cloak, which is also more easily put on the child.

WEARING THE SURPLICE OVER THE ROCHET

Question: When a domestic prelate officiates at a baptism or a wedding, is it correct for him to wear the stole over the rochet and mantelletta? I have been told that he should wear the surplice over the rochet and not the mantelletta at all but this looks awkward and it is seemingly incongruous to wear together two such similar garments as the rochet and mantelletta.

Answer: The reply to the above question will be better understood if we remind our enquirer that while the surplice is a liturgical vestment, the rochet is not, but only a mark of distinction, worn as part of the choir dress of a prelate, and hence is not a substitute for the surplice at liturgical functions. So, for the administration of sacraments, such as baptism, or for officiating at functions, such as weddings, the correct dress for a domestic prelate is surplice over rochet and then the stole. For occasions of solemnity, the cope may also be worn, in which case the amice also is used. Nor is there any objection, on special occasions, to wear, over the rochet, amice, alb, cincture, stole, and cope. It is a Papal privilege to wear the stole over an outer garment, like the mantelletta, when the latter is worn with the rochet. (It is scarcely necessary to note that the Holy Father never wears a mantelletta, but always the mozzetta).

While the simultaneous wearing of rochet and surplice may look to many a strange combination, it is a practice frequently seen in Rome. There, the Papal masters of ceremonies wear surplices over their rochets when directing pontifical functions and the canons of the major basilicas do the same during the months of year when it is too warm to wear the canonical in-

signia, which is regularly the folded *cappa magna*. The surplice must not be considered as restricted to inferior orders of the clergy as even the six cardinals of the order of bishops wear surplices over their rochets and under their copes when participating in Papal ceremonies.

WEARING THE MOZZETTA IN PRESENCE OF THE METROPOLITAN

Question: What is the proper dress of the diocesan bishop when he is present at functions at which his metropolitan also assists? When he does not wear the *cappa magna*, should he wear the mozzetta alone over his rochet, or the mozzetta with the mantelletta under it, or the mantelletta alone?

Answer: Barbier de Montault (I, 336), quoting a decree of the Sacred Congregation of Rites, dated Jan. 31, 1663, directs that the diocesan bishop should not wear the mozzetta in the presence of his metropolitan. The meaning is, evidently, not the mozzetta *alone*, i.e. without the mantelletta beneath it. We gather this meaning from the succeeding page where this authority, citing the *Caeremoniale episcoporum* (Lib. I, Cap. iv, 7), gives the direction that a bishop should wear mantelletta *and* mozzetta *coram cardinali* but the mantelletta alone, over the rochet, if the cardinal is a legate of the Holy See. The same prohibition of the wearing of the mozzetta alone in the presence of the metropolitan is renewed in the decrees of March 17, 1663, and Dec. 13, 1898. Answering a query as to whether the diocesan bishop should wear the mozzetta or rather (*satius*) the mantelletta in the presence of a cardinal, whether or not the latter is a legate *a latere*, the Sacred Congregation, on Dec. 26, 1919, replied: "Servetur *Caer. Ep.* I, iv, 7," which reads that the mantelletta alone is to be worn in the presence of a cardinal legate and, by deduction, the mozzetta along with the mantelletta, when His Eminence is not a legate *a latere*.

We conclude that the mozzetta is to be worn in conjunction with the matelletta by the diocesan bishop *coram metropolitano* or in the presence of any cardinal who is not a legate of the Holy See. When the latter is the case, the bishop wears the mantelletta alone over his rochet.

WILLIAM J. LALLOU

THE PENITENT'S RIGHT TO A MORE LENIENT VIEW

Question: If a confessor considers a certain theological opinion too lenient, although it is held by some good theologians, may he bind a penitent to his own stricter view, or must he give the penitent the right to follow the easier opinion?

Answer: If a penitent is sufficiently learned to form his own decisions prudently in moral matters (for example, if he is a priest), and if he regards a more lenient view as sufficiently probable to be followed safely, the confessor may not oblige the penitent to accept his (the confessor's) stricter view, as long as the confessor can discern some truly probable grounds for the easier opinion, even though they do not suffice to convince him himself. Discussing this problem, St. Alphonsus says: "A confessor, as often as his opinion is not evidently certain, cannot oblige a penitent to follow it. He not only can, but he must absolve him, permitting him to follow his own opinion, as soon as the penitent with that opinion forms his conscience for himself regarding the lawfulness of the action . . . However, I believe this is to be admitted only when the opinion of the penitent has some probability, so that the confessor, even though he does not regard it as solidly probable, nevertheless does not deem it clearly false" (*Theologia moralis*, VI, n. 604).

If, however, the penitent is a person incapable of prudently forming his own conscience and he looks to the confessor to guide him in this matter, the confessor must consistently give him the opinion which he himself considers the only sufficiently probable solution, and refuse absolution if the penitent refuses to accept it as the norm of his future conduct. To quote St. Alphonsus again: "If the penitent is unlearned so that he cannot form a right conscience for himself from the probability of that [easier] opinion, it is certain that he cannot then be absolved [if he refuses to accept the confessor's stricter opinion]" (*Homo apostolicus*, Tr. XVI, n. 118). Merkelbach adds that if it is foreseen that the penitent will not accept the confessor's view, the latter in charity can add that others teach differently; but he is never allowed to urge a view that he considers improbable or only doubtfully or lightly probable, or to say that such a view is probable (*Summa theologiae moralis* [Paris, 1938], II, n. 107).

GRACE IN PUBLIC

Question: Is it advisable for a priest, when dining in a public place, such as a restaurant or dining-car, to make the sign of the cross openly in saying grace?

Answer: It is hardly possible to give an unqualified answer, since circumstances could vary greatly. Certainly, in distinctively Catholic surroundings, where practically all of those present are Catholics, a priest would be expected to bless himself before sitting down to table. Doubtless there are some who believe that this same practice should be observed wherever a priest dines, even though a large portion of those present are non-Catholics. But against this view can be adduced the undeniable fact that in such surroundings there will always be some who will regard the act of the priest as an unnecessary display of religion, or even as hypocrisy, and this would only serve to increase their antagonism toward the Catholic Church. It is indeed regrettable that our American people are inclined to view public acts of religion in this way, but the fact remains that this is a fairly common American attitude. In view of this fact, many priests have the custom, when eating in a public place, to pause slightly before sitting down for a mental recitation of grace, while unostentatiously making a small sign of the cross on forehead or breast. Personally I think this method quite satisfactory and in no wise indicative of reprehensible hesitancy to profess the faith. The same practice could be recommended to a lay Catholic.

FRANCIS J. CONNELL, C.SS.R.

DURANDUS ON THE DEFINITIONS OF THE CHURCH

The word Church has two meanings: the one a material building wherein the divine offices are celebrated: the other, a spiritual fabric, which is the collection of the faithful. The Church, that is, the people forming it, is assembled by its ministers, and collected together into one place by Him who maketh men to be of one mind in a house. For as the material Church is constructed from the joining together of the various stones, so is the spiritual Church by that of various men.

—Bishop William Durandus, in the *Rationale,* Lib. I, cap. 1.

Book Reviews

HISTORY OF EDUCATION. By Patrick J. McCormick, S.T.L., Ph.D. Revised by Frank P. Cassidy, Ph.D. Washington, D. C.: The Catholic Education Press, 1946. Pp. xxv + 649. $4.00.

In its original form this history has been in wide use in Catholic schools of this and other countries since 1915. The classroom experience of teachers and the changing circumstances of thirty years suggested both expansion of treatment and improvement of detail. These it has received in the present revision by Dr. Cassidy, associate professor in the department of education at Catholic University and editor of the Catholic Educational Review.

The most obvious change is the enlargement of the treatment. The volume has grown by two hundred and fifty pages. About one hundred of these are given to education in ancient times; about sixty to medieval teaching wherein Dr. Cassidy's special competence develops the contributions made by the Fathers; about eighty additional pages are given to the modern forms; and lastly the index is made more valuable by being brought to twice the length of that in the old edition. In the modern section two new chapters on American education are introduced. The second of these deals almost entirely with the Catholic effort to analyze the modern contribution and to assimilate its valuable elements. Here much stress is laid on the ideas of the late Dr. Shields.

We might have wished that Dr. Cassidy had given more of this added space to Catholic education in the United States and particularly that he had emphasized the role, actual and potential, of The Catholic University of America. Perhaps we may hope that he will later apply his scholarly attention to that field.

There can be no question, however, that the additions and modifications made by Dr. Cassidy have greatly increased the value of the original work. If all the work done at Brookland were so used and so enhanced by continued interest over the years it would strengthen the influence of that great institution where too often the work of its scholars, however able, is somewhat individualistic in outlook. Dr. McCormick's text has been widely useful for several university generations. Dr. Cassidy's will certainly be welcome and helpful for a good many more. The fact of his lending his learning, industry, and patience to the earlier work of a colleague reflects honor on both the authors and on the institution of which one is now the chief and the other a valued and distinguished professor. In connection with this is a further fact: In the course of these years many able dissertations on educational

subjects have been inspired by the faculty of which Msgr. McCormick was the head and in which Dr. Cassidy is still an active teacher. The bibliographies of the new revision are enriched by many references to these volumes. This is a further instance to show how many factors work together unto good. Through this volume's use in many a classroom and on many a reference shelf the Catholic University will have a living influence on minds to which it would otherwise be only a name from a catalogue. Dr. Cassidy has rendered his university a great service. We hope his example will be taken and followed by many of his confreres.

In any case the volume now before us has already won early recognition and it will be for many years the valued guide and helper of all those who are concerned with the noble work of teaching.

JOHN K. CARTWRIGHT

CHRISTIANITY. By Joseph H. Fichter, S.J. St. Louis: B. Herder Book Co., 1946. Pp. vii + 267. $2.50.

This volume is described by the author as "a short, easy explanation of Catholic theology," designed for adults who wish to have something of a comprehensive statement of the doctrines of the Catholic Church, beyond the catechism stage and yet short of a technical course in theology. It succeeds admirably in this objective. In condensed form, with numerous references to Holy Scripture, the usual seminary course in apologetics and dogma is unfolded for the layman's instruction. Eleven chapters summarize the various treatises: I. God Talks to Man (Revelation), II. God's Church, III. Inspiration, IV. The Knowledge of God, V. The Trinity, VI. God and the World (Creation and Divine Providence), VII. God and the Human Race (Original Sin), VIII. Jesus Christ (Redemption), IX. The Way of Salvation (Grace), X. The Sacramental System, XI. The After Life.

While fulfilling its stated function and worthy of recommendation as such, however, this book cannot be considered as a distinctive contribution in its field. It follows the same approach and pattern as numerous other "popular" books on the subject. The title "Christianity" is somewhat too broad for the subject matter; and the author fails to demonstrate that maturity of personal conception which would vitalize an understanding of the Catholic faith for this generation.

At times, despite an endeavor to reach out of the text book and across the desk, so to speak, the language is rather heavy and unrevealing. Thus, it is stated: "Even though God can be known intuitively through this supernatural mode of cognition, the divine essence still remains incomprehensible to every created intellect, including that of

the angels. Comprehension signifies a cognition which exhausts the complete knowability of the object with all the certitude and clarity with which it can be known." Of Adam, it is noted that "The lower sensitive appetites were in perfect subordination to his intellect because of his immunity from inordinate concupiscence." All this, of course, is true; but it makes the going rather laborious for the average reader.

In the humble judgment of this reviewer, there still remains a great need among the laity for a fresh presentation of these truths, in answer to modern wonderment, and a realignment of the message of the Gospels in a way that will stir the reader to a more dynamic understanding and positive living of the Catholic faith and way of life. Perhaps in his next book, Fr. Fichter will more completely respond to this challenge.

JAMES A. MAGNER

THE CHRISTIAN SACRIFICE: THE SACRIFICE OF CHRIST, OUR HEAD. By Eugene Masure. London: Burns, Oates and Washbourne, 1944. Pp. 288. $3.50.

Canon Masure, director of the *Grand Séminaire* at Lille, has included among the chapters of this volume several phases of a lengthy article, which appeared in the *Revue Apologétique* XLV (1927) under the general title: *Aux origines du dogme chrétien: le sacrifice de l'eucharistie.*

The work is divided into three separate books, concerned respectively with sacrifice in general, The Sacrifice of the Son of God, and the Eucharistic Sacrifice.

In his treatment of sacrifice in general, the author chooses to bypass the many post-Tridentine definitions common to modern theological manuals, in favor of those found in the writings of St. Augustine and St. Thomas Aquinas. This procedure, he avers, makes it possible to go beyond the apologetic perspective peculiar to modern theological writers, besides providing a definition which bears more eminently the indelible hallmark of Christian tradition. He would define sacrifice thus:

> Sacrifice is a sensible sign (or rite), in which, under the symbols (or species) of a victim, man, to pay his due to God, and so to realize his end, bears witness that he renounces sin which is his evil (immolation), and that he turns to God, Who is his good (oblation)—hoping that the divine acceptance, sanctifying his offering, will win for him the heavenly alliance at which he aims, and that the victim will bring him by communion the guarantee of it (p. 78).

In the second book, this definition is applied to the unique sacrifice of history,—Christ's *personal* sacrifice. Unlike the older sacrifices of

history, the Lord's personal and historic sacrifice, was not simply a means to an end: it was rather identified with the realization of the end itself. Moreover, while all these other sacrifices were essentially liturgical, i.e., symbolic or figurative, this central sacrifice needed no such ritualistic trappings. With these reservations, Canon Masure considers Christ's sacrifice to consist, first, in the return of the Son to the Father laden with His religion of adoring love, accomplished in the difficult conditions imposed by man's sin; secondly, in the Father's acceptance of this matchless homage offered by His Incarnate Son. In the Passion, Death, Resurrection and Ascension, therefore, the Saviour visibly realized the metaphysics of toilsome return and triumphant welcome, which the ritual and symbolic sacrifices of Judaism and Paganism had endeavored unceasingly to delineate.

The major premise of the third book is derived from the words of Trent: *sub signis visibilibus Christus immolandus* (Sess. XXII, c. 1). Reasoning from these words, Canon Masure explains that the Church has in her hands the ritual and daily Sacrifice of Redemption, because Christ has afforded her a sacramental sign, at once symbolic and efficacious, of His historic and personal Sacrifice, accomplished both on Calvary and in Heaven. Rejecting the note of new immolation distinct from that of Calvary, he declares that the Church, in the Mass, now offers with her Head, the Eternal Victim, forever immolated and forever accepted, and now *re-presented* upon the altar. Such a sign, instituted by Christ, must need be efficacious, i.e., rich enough to contain within itself the reality which it resembles. The Mass, then, is a sacramental sacrifice, distinct as a sacrament from the sacrifice which it represents; identical as a sacrifice with the sacrifice of which it is the sacrament.

Through Transubstantiation, the sacrifice of Christ takes the place of the Church's material offerings, yet our sacrifice, thanks to the preservation of the species, is the efficacious sign of Christ's redemptive sacrifice (p. 247). In the Mass, therefore, the Church signs Christ's sacrifice anew—and with an efficacious sign, because it is His before becoming ours (p. 287).

The constant repetition of general principles at times irritates, yet is not devoid of pedagogical value. In the breadth of its horizons, the work might aptly serve as a general introduction to Catholic dogma. By his sane and sober explanation of the essence of the Mass, Canon Masure has made a noteworthy contribution, and we shall wait long before finding anything better.

EDWARD F. DOWD

AUSTRALIA: THE CATHOLIC CHAPTER. By James G. Murtagh. New York: Sheed and Ward, 1946. Pp. xviii + 261. $3.00.

Quite a good deal of interest has been aroused in recent years in our young Pacific ally, Australia. Our servicemen who had the opportunity to visit or train there were delighted with the cordial reception and kind hospitality extended to them. So it is only natural that many of us think of Australia rather kindly, and would gladly hear more of her and of her history.

Fr. Murtagh's book, therefore, comes at the opportune moment to afford us just what we are seeking.

Fortunately, it cannot be called a history in the strict sense, in that the reader is not burdened with a host of details and facts, important enough for the historian, but which for the casual reader savour too much of the class-room or of the library book-shelf. The book gives only the broad outlines of the history of Australia, with just that right amount of attention given to the historical facts which are of importance. The author first observes the factors which gave rise to the birth of this, the world's youngest nation, and then traces accurately its development along social lines through childhood, youth and up to its present early manhood.

To be more explicit concerning the book's content, I should say that the author traces particularly the social development of Australia as reflected in the activity of its Catholic citizens, but he certainly does not fail to praise the encouragement and substantial assistance given by those outside the Faith. In his introduction Fr. Murtagh calls his work "a chapter in the Catholic Social Movement," and then goes ahead to do a very fine job in showing just how important that Catholic social activity was.

In the early days of Australia, there was much that stood in need of reform. The colony was founded from most distressing motives—to provide prison accommodation for sentences under England's iniquitous system of justice, for English prisons were unable to contain the rapidly accumulating number of offenders sentenced to five years and more for the most trifling offenses.

The story of how this grand-scale colonial slavery—far worse and more degrading than what we have known in our own land—was defeated by its own abuses, the growth of liberalism, the influx of immigrants and finally by the stout efforts of some of the early Catholics who refused to submit to slavery and religious intolerance, forms the first episode in the Australian Chapter.

In the early 1850's, the great event which proved to be a landmark in Australian history was the discovery of gold. It was this that attracted the best part of a million immigrants from Britain and the U. S.

Catholics were among the leaders fighting for justice and freedom for the miners, and eventually won the day after the apparent failure of the Eureka Rising.

The next struggle which called for Catholic endeavour was against the evils of a secular educational system and the withdrawal of State aid from denominational (mainly Catholic) schools. Here they were unsuccessful, and Australia still suffers from the ruling made by Sir Henry Parkes, Premier of New South Wales, in 1877.

Politically during these same years, Australia's progress was rapidly approaching a climax, and the people's clamour for Independence was at length answered in 1890 by the Bill of Federation. Australia had become a Commonwealth. Confident in the strength of her young manhood, she began her march along the road of progress—only to be brought to a rude standstill by the world catastrophe of 1914.

Finally, World War II introduced a situation new and unfamiliar to the Australian people in the proximate threat of invasion from a foreign power. The whole world knows now how Australia was saved by the armed intervention of the U. S., and how in consequence, a strong link has been forged between the two nations. In 1941, the Australian Prime Minister, the late Mr. Curtin, was able to make the following statement: "Without any inhibitions of any kind, I make it quite clear that Australia looks to America free from any pangs as to our traditional links or kinship with the United Kingdom" (p. 241). Time alone will show what that bond will bring.

Anyone interested in the history of Australia, and particularly of the Australian Catholic Social Movement, should not miss reading this splendid work of Fr. Murtagh. It is the first complete work of its kind dealing with the subject, and is an inspiration to Catholics of Australia and America alike, who today need to fight against strong opposition, and a gracious introduction to Australian Catholicism.

NICHOLAS WARNE, O.F.M.

THEOLOGY AND SANITY. By F. J. Sheed. New York: Sheed and Ward, 1946. Pp. x + 407. $3.00.

Despite its manifest literary excellence, Mr. Sheed's book manifests doctrinal shortcomings serious enough, in the opinion of this reviewer at least, to render the volume a somewhat questionable asset in the task of explaining Catholic truth. According to the author, "This book contains theology, not the great mass of it that theologians need, but the indispensable minimum that every man needs in order that he may be living mentally in the real world" (p. v). An "indispensable minimum" of theology on the Church should certainly include some clear

statement of the requisites for membership in Our Lord's society. It should also contain a more adequate and accurate treatment of other teachings in the field of fundamental dogmatic theology than that given by Mr. Sheed.

Theology and Sanity gives neither a satisfactory teaching about membership in the Church nor any sufficient indication of the Church's real necessity for salvation, although these are certainly theological truths which a man must understand "in order that he may be living mentally in a real world." Mr. Sheed's teaching on the function of the Church as the rule of faith (p. 355) is misleading. His teaching that "The Mystical Body, His Church, we may think of as the successor to His natural body, or perhaps better to His human nature as a whole" (pp. 286 f.) is certainly unfortunate. And his contention that "in the Mystical Body, the Kingdom of God is like a leaven working secretly" (p. 282) betrays a fundamental confusion of thought on a crucial point of theology recently clarified in the encyclical *Mystici corporis*. His claim that it is the privilege of any man to dislike the company he finds in the Church (p. 262) can hardly be set forth in the name of sacred theology. Moreover since theology takes the magisterium of the Church as its guiding norm one would expect a much more clearly defined use of it throughout the book.

Mr. Sheed offers only a very imperfect explanation of the motives of credibility. He seems to be under the impression that the only function of intellectual inquiry into the evidences of credibility is that of preparing the way for the act of faith (p. 351) and thus he takes no cognizance of the fact that the motives of credibility point to Catholic doctrine as the one body of teaching which can and should be accepted with the assent of divine faith. Mr. Sheed's offerings in this field fall far below the "indispensable minimum" of theology which the Catholic layman should possess. It should be noted also that the treatment of Papal Infallibility in *Theology and Sanity* is generally unsatisfactory.

JOSEPH CLIFFORD FENTON

IN HIM WAS LIFE. By John P. Delaney, S.J. New York: The America Press, 1946. Pp. xii + 179. $2.75.

The author of this book is a former associate editor of *America*. He has the distinction also of being the first to announce to the world the election of Pius XII, at which time he made his now famous five-hour broadcast from Rome. At the beginning of World War II, Fr. Delaney was in New York organizing and conducting the Institute of Social Order, a co-ordinating agency for all Jesuit social-welfare groups in the United States. It was in the year 1943 that he began